

ZONING BY-LAW
FOR THE
TOWN OF HANOVER

*Includes amendments up to
and including the
Town Meeting of May 1997*

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SECTION 1 - CITATION AND PURPOSE

This By-Law shall be known and may be cited as the Zoning By-Law for the Town of Hanover. It is enacted to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land and to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural, scenic and historical resources; to prevent blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the master plan adopted by the Planning Board; to preserve and increase amenities; to enhance the visual environment of the Town; to protect and preserve from despoliation significant environmental features and resources; and to protect and promote the natural, scenic and aesthetic qualities of the Town by the promulgation of regulations to fulfill said objectives in accordance with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

SECTION 2 - DEFINITIONS

2.000 - Standard Interpretations:

- 2.010 For the purposes of this By-Law, certain terms or words used herein shall be interpreted as follows:
- A. *The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.*
 - B. The present tense includes the future tense, words in the singular number include the plural number and words in the plural number include the singular number.
 - C. The word "shall" is mandatory, *the word "may" is permissive.*
 - D. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
 - E. The words "*building lot*", "lot", "*parcel*" and "plot" shall have the same meaning and shall be interchangeable.
 - F. The word "land" includes the words "water and marsh," *unless otherwise designated herein.*
 - G. The word "structure" includes the word "building."
 - H. *The words "road", "roadway", "street" and "way" shall have the same meaning and shall be interchangeable.*
- 2.020 *Where used in this By-Law, the specific definition of words and terms listed in this Section shall be interpreted as stated and shall have the meaning ascribed to them.*

2.100 - Definitions:

Abandoned:

Having ceased a use or activity without intent to resume, but excluding temporary or short term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal

closure. For purposes of this By-Law, a use shall be deemed to be abandoned when the structure and/or lot on which the use occurs is marketed for any other use.

Accessory Building:

A detached building *or structure*, which is subordinate to the main building and *is* located on the same lot with the main building, the use of which is *closely related to and* customarily incidental to that of the main building or to the use of the land. Where a substantial part of a wall of an accessory building is part of the wall of a main building, or where an accessory building is attached to the main building, such accessory building shall be *determined to be* part of the main building.

Accessory Use:

A *secondary* use which is *conducted* on the same lot *or within the same structure* as the primary use, is *subordinate to the primary use* and is *closely related to* and customarily incidental to the primary use of the lot or structure.

Addition:

New construction in which a substantial part of a wall is attached to the principal building.

Adult Bookstore:

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual *conduct* or sexual excitement as defined in Section 31 of Chapter 272 of the *Massachusetts* General Laws.

Adult Motion Picture Theater:

An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in Section 31 of Chapter 272 of the *Massachusetts* General Laws.

Allowed Use:

A use authorized or allowed by right within a specific zoning district. Uses in districts other than the Residence A District may require Site Plan Approval.

Aquifer:

A *geological* formation, group of formations, or part of a formation that contains sufficient saturated permeable materials to yield significant quantities of water.

Aquifer Recharge Area:

An area that has soils, geological features and wetland resources that are conducive to allowing significant amounts of surface water to percolate into groundwater.

Area of Influence:

The area which experiences drawdown by a pumping well as plotted on a two dimensional map surface; usually ellipsoidal in shape.

Automobile Dealerships:

A sales agency that sells and distributes to the general public new and/or used cars and/or light utility vans and trucks.

Boarding or Rooming House:

A building or premise, other than a hotel, inn, motel, tourist court or lodging house, where rooms are let and where meals may be regularly served by pre-arrangement for compensation; not open to transient guests.

Building:

A structure having a roof or *rigid* cover supported by columns or walls for the shelter, support or enclosure of persons, animals or property.

Building Coverage:

That portion of a lot covered by all buildings and structures.

Building Inspector:

Building Inspector shall mean the Inspector of Buildings or other designated authority, or a duly authorized representative, serving under the building code, and charged with the enforcement of this By-Law. Where the term Building Inspector is used relative to enforcement of this Zoning By-Law it shall be understood to mean the Zoning Enforcement Officer, if such position is filled by someone other than the Building Inspector.

Building Lot:

A parcel of land occupied, or intended to be occupied, by a building and its accessory buildings, or by group dwellings and their accessory buildings, together with such open space as is required, having at least the minimum area required for a lot in the zoning district in

which such lot is located and having at least the minimum frontage along a public street or public way or along a way shown on a plan theretofore approved and endorsed in accordance with Massachusetts General Laws, Chapter 41, Sections 81K-81GG (The Subdivision Control Law). A building lot shall not include any portion of a street or way which is relied upon to qualify the lot as to frontage.

Canopies or Porticos:

Roof structures *which* have no side walls and *which* may be attached to or detached from the principal building on a lot, provided that such structure complies with the definition of Accessory Building in Section 2 of this By-Law.

Cone of Depression:

A three dimensional conical concavity produced in a water table by a pumping well.

Day Care Center:

Any public or privately sponsored non-residential program, which provides for the care of school-age children when not attending school or pre-school children by someone other than members of the child's own family, and which involves and supports the child's parents or guardians and are appropriate to the development of the child, including in-home care; homemaker services; family day care homes; group day care homes; day care centers for the full day; part-day preschool programs and nursery schools; private kindergartens; before and after school programs; temporary shelter care programs and programs which offer night care.

Discharge:

The spilling, leaking, pumping, pouring, emitting, emptying, or dumping of toxic or hazardous materials upon or into any land or waters in the Town of Hanover Discharge includes, without limitations, leakage of such materials from failed or discarded containers or storage systems, and disposal of such materials into any on-site sewage disposal system, dry well, catch basin, or unapproved landfill.

Dwelling:

A building, used *primarily for residential purposes* for one or more persons, but not including trailers or mobile homes, however mounted, or commercial accommodations for transient occupancy.

Dwelling Unit:

One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the continuous or permanent use of one (1) or more *persons* living together as a single housekeeping unit.

Expansion:

For purposes of this By-Law, an expansion shall include, but not be limited to, any or all of the following: greater coverage of land area with structures or paving or other non-vegetative uses; any increase in parking or storage or display of vehicles or goods; any increase in the volume of a structure by means of an addition, or enlargement; or, the placement of accessory structures or accessory uses such as gas pumps, storage sheds, outdoor displays and other similar structures or uses.

Floor Area:

The interior floor area of a dwelling unit exclusive of basements, stair wells, halls, bathrooms, corridors, attics, wall partitions and attached accessory buildings. *For non-residential structures*, the floor area is the gross area measured from the outer faces of exterior walls.

Frontage:

A linear measurement along that edge of a lot where it abuts the way line. To qualify a lot as a building lot, frontage shall be along a way as defined in Section 2, and shall be continuous and uninterrupted for at least the minimum distance required for the Zoning District in which the lot lies. Primary access and the provision of municipal services shall be through the frontage of a lot.

Garage, Private:

Covered space intended for the housing of motor vehicles or boats, but not for commercial repair, or commercial storage, or the rental of more than two (2) stalls.

Garage, Repair:

A building designed and used commercially for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

Gas Station:

Buildings and premises where the primary use is the retail supply and dispensing of motor fuels, lubricants, batteries, tires, and motor vehicle accessories.

Gross Floor Area:

The sum of the areas for each story or level of a dwelling unit exclusive of areas not designed for human occupancy including, but not limited to basements, stairwells, bathrooms, attics, wall partitions and attached accessory buildings. For business, commercial and industrial structures, the gross floor area is the sum of the areas for each story or level inclusive of basements, elevator shafts, stairwells, and floor space used for mechanical equipment as measured from the outer face of exterior walls.

Groundwater:

All water found beneath the surface of the ground. As used in this By-Law, the term refers to the subsurface water present in aquifers and recharge areas.

Hazardous Material or Waste:

Any product, waste, or combination of substances which because of quantity, concentration, or physical, chemical, or infectious characteristics, poses a substantial present or potential hazard to human health and safety, while stored, transported, used, disposed of, or otherwise managed. Any substance deemed a hazardous waste in Chapter 21C of the Massachusetts General Laws and its implementing regulations found at 310 CMR 30.00 et seq., shall be deemed hazardous material for the purpose of this By-Law.

Home Occupation:

An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not employ or utilize non-resident personnel on the premises and which does not alter the exterior of the property or affect the residential character of the neighborhood in which it occurs. Occupations such as dressmaking, preserving or home cooking, repair of portable equipment or appliances, real estate agent, craft manufacturing, selling and collecting of antiques, giving private music and dance lessons, are all included in this definition but a beauty parlor, barber shop, convalescent or nursing home, tourist home, or similar establishment offering services to the general public are not.

Hotel, Inn, Motel, Tourist Court or Lodging House:

A facility offering transient lodging accommodations and/or cooking facilities at a daily rate to the general public and providing additional services such as restaurants, meeting rooms, and recreational facilities.

Impervious Surface:

A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand and gravel, or clay, as well as most conventionally surfaced streets, roofs, roadways, sidewalks, parking lots, and other similar structures.

Kennel:

An establishment, enclosure, or facility housing dogs, cats, or other household pets, where grooming, breeding, boarding, training, or selling of animals is conducted for business purposes.

Leachable Waste:

Waste materials including solid wastes, sludge, and agricultural wastes that are capable of releasing water-borne contaminants to the surrounding environment.

Loading Space, Off-Street:

An off-street space or berth which has access to a way, alley, driveway, or other appropriate means of ingress and egress, is located on the same lot with a building and is used for the temporary parking of vehicles while loading or unloading merchandise or material.

Lot, Corner:

A lot abutting on two (2) or more streets *or ways* at their intersection.

Lot Coverage:

That portion of a lot covered by all buildings, structures, pavement and any other impervious surfaces.

Maximum High Groundwater Elevation:

The highest seasonal elevation of the surface of the zone of saturation that has been historically documented or calculated.

Membership Club:

A private organization, building or grounds, to which membership is limited or controlled.

Mining of Land:

The removal of geologic materials *including, but not limited to*, topsoil, sand, gravel, or bedrock.

Mobile Home:

A transportable, factory built home which is drawn by or used in connection with a motor vehicle and is designed and constructed to permit human habitation, whether resting on wheels, jacks or other foundations. A mobile home is further defined to mean a dwelling unit built on a

chassis and containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation for permanent living quarters.

Non-Conformance:

A condition, other than use, structure or lot, that does not comply with certain zoning regulations. A pre-existing non-conformance is one which complied with applicable regulations at the time that the condition was established – e.g., buffers, landscaping, parking, signs, and/or other similar conditions.

Non-Conforming Lot:

A lot that does not comply with the dimensional regulations for the zoning district in which it is located. A pre-existing non-conforming lot is one which complied with applicable dimensional regulations at the time the lot was established.

Non-Conforming Structure:

A structure that does not comply with the regulations relative to size and/or location on a lot for the zoning district in which such structure is located. A pre-existing non-conforming structure is one which complied with applicable regulations at the time the structure was established.

Non-Conforming Use:

A use of land or buildings which does not conform to the use regulations for the zoning district in which it exists. A pre-existing non-conforming use is one which complied with applicable use regulations at the time the use was established or the structure was constructed.

Overlay District:

A zoning district which overlies other zoning districts. The provisions and restrictions of an overlay district take precedence over those of the underlying zoning district(s).

Permit Granting Authority:

For purposes of this By-Law, the Zoning Board of Appeals shall be the “Permit Granting Authority”.

Permitted Use:

A use authorized within a specific zoning district only upon the grant of a Special Permit by the Permit Granting Authority or by the Special Permit Granting Authority. Said Special Permits shall be subject to general and/or specific conditions as provided.

Pre-Existing:

When used in this By-Law in conjunction with the terms Non-Conformance, Non-Conforming Lot, Non-Conforming Structure, or Non-Conforming Use, the term "Pre-Existing" shall mean a situation that existed prior to the adoption of this By-Law, or any amendment thereto, which caused said lot, structure, use, or other non-conformity to become non-conforming.

Sanitary Waste:

Wastewaters arising from ordinary domestic water use as from toilets, sinks, bathing facilities, etc., and containing such concentrations and types of pollutants as to be considered normal wastes.

Service Station:

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tuneups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

Setback:

The minimum distance that a building or structure and any accessory building(s) shall be separated from the front, rear and/or side lot lines of a lot. Specific front, rear and/or side setback distances for each Zoning District may be found in Section 7 of this By-Law.

Sign:

A structure, device, or visual communication designed or intended to convey information to the public in written or pictorial form.

Solid Waste:

Unwanted or discarded solid material with insufficient liquid content to be free-flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill material, and landscape refuse.

Special Permit Granting Authority

For purposes of this By-Law, the Planning Board shall be the "Special Permit Granting Authority", unless some other Board or Commission is expressly indicated.

Story:

That portion of a building *that includes the space between* the surface of any floor and the surface of the next floor above it, or, if no floor *exists* above it, the space between such floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. One-half (½) story means any story or space situated wholly or partly in the roof, so designed, arranged, or built to be used for storage or habitation.

Street:

A public or private way *used, or intended to be used, for passage or travel.*

Structure:

Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. Examples of structures *include, but are not limited to*, buildings, swimming pools (above-ground or in-ground), retaining walls, sheds, vending or dispensing machines of twenty (20) square feet or more, and communications towers or structures.

Trailer

A vehicle or object on wheels which has no motive power of its own, but which is drawn by or used in connection with a motor vehicle. *A storage trailer is one which is designed, constructed and utilized for the principal purpose of storing goods or material and is generally located in a stationary position. A utility trailer is one which is designed, constructed and utilized for the principal purpose of transporting equipment, goods or material from one location to another.*

Turning Radius:

A curved section of a street forming a portion of a closed loop or circle, *commonly referred to as a cul-de-sac*, provided to facilitate vehicular traffic at the terminus of what would otherwise be a dead-end street.

Upland Area:

That area exclusive of wetlands and floodplains as defined by *Section 40 of Chapter 131 of the Massachusetts General Laws, as amended and its implementing regulations, 310 CMR 10.00 et. seq.*

Way:

A vehicular or pedestrian thoroughfare, which is either:

- 1. A public way laid out by a governmental entity or public authority pursuant to Massachusetts General Laws;*
- 2. A way that has been accepted as a public way by a majority vote of the Town at an Annual Town Meeting;*
- 3. A way that is shown on a plan approved, endorsed and constructed in accordance with the Subdivision Rules and Regulations of the Town of Hanover; or*
- 4. A way, in existence when the Subdivision Control Law became effective in the Town, that is certified by the Planning Board as having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and to provide for the installation of municipal services to serve such land.*

Way Line:

The dividing line between *a way* and a lot. In the case of a public way, the line established by the public authority laying out the way upon which the lot abuts.

Wetlands:

For purposes of this By-Law, wetlands shall include both freshwater and coastal wetlands as determined by the Hanover Conservation Commission, or as defined by Section 40 of Chapter 131 of the Massachusetts General Laws as amended *and its implementing regulations, 310 CMR 10.00 et seq.* Examples of wetlands include, *but are not limited to:* wet meadows, marshes, swamps, bogs, areas where groundwater or flowing or standing surface water or ice provides a significant portion of the supporting substrata for a plant community for at least five (5) months of the year; land under any lake, pond, river, stream, creek or estuary; any bank, marsh, swamp, meadow or other lowland subject to tidal action or storm flooding or flowage. In an instance where a *conflict* exists between wetlands as defined by the Massachusetts General Laws, and a determination by the Hanover Conservation Commission, the latter shall apply.

Yard:

Any open space *located* on the same lot with a building.

SECTION 3 - DISTRICTS

3.000 - Establishment of Districts:

- 3.010 For the purposes of this By-Law, the Town of Hanover is divided into the following types of districts:
- A. Residence A District
 - B. Business District
 - C. Commercial District
 - D. Planned Shopping Center District
 - E. Limited Industrial District
 - F. *Industrial District*
 - G. *Fireworks District*
 - H. Flood Plain Protection District (*Overlay District*)
 - I. Water Resource Protection District, *which consists of the Aquifer Protection Zone and the Well Protection Zones. (Overlay Districts)*

3.100 - Location of Districts:

- 3.110 Said districts are hereby established as shown, located, defined and bounded on a map entitled "Zoning Map of the Town of Hanover, Massachusetts," *prepared by Perkins Engineering, dated June 10, 1981 and amended through May 2, 1995* and filed with the Office of the Town Clerk as subsequently amended in accordance with Section 14 of this By-Law: which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this By-Law.
- 3.120 Maps currently in effect for the overlay districts are on file with the Town Clerk and consist of:
- A. Two (2) Flood Plain Overlay District Maps as follows:
 - 1. "Flood Insurance Rate Map, Town of Hanover,

Massachusetts" prepared by the U.S. Federal Emergency Management Agency, consisting of six (6) sheets, #250266-0001B to #250266-0006A, dated December 15, 1982.

2. "Flood Boundary and Floodway Map, Town of Hanover, Massachusetts" prepared by the U.S. Federal Emergency Management Agency, consisting of six sheets #250266-0001 to #250266-0006 dated December 15, 1982.

B. The Aquifer Protection Zone as delineated on the Zoning Map identified in Section 3.110, above.

C. Three (3) overlay district maps pertaining to the Water Resource Protection District as follows:

1. Well Protection Zone, Figure 1, Pond Street, Well Field.
2. Well Protection Zone, Figure 2, Hanover Street, Well Field.
3. Well Protection Zone, Figure 3, Broadway, Well Field.

3.200 - Location of Boundaries of Districts:

3.210 Where the boundary lines are shown upon the Zoning Map to be within the *way* lines of public or private ways, or within utility transmission line *easements*, the center lines of such ways or *easements* shall be the *district* boundary lines, unless otherwise indicated.

3.220 Boundary lines located outside of such *way* lines or transmission line *easements* and shown approximately parallel thereto shall be regarded as parallel to such *ways* or *transmission* lines, and dimensions shown in figures placed upon the Zoning Map between such boundary lines and such *ways* or transmission lines are the distances in feet of such boundary lines from the center line of such *ways* or *transmission* line *easements*. Distances *shall be* measured at right angles to such lines unless otherwise indicated.

3.230 Where a *district* boundary line *appears to closely* approximate the location of property or lot lines, *and no offset dimension is shown between* the property or lot line and the boundary line, then the property or lot line shall be the *district* boundary line.

- 3.240 In all cases not covered by *the above* provisions of this Section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon *the Zoning Map*, by the use of identifications as shown on the Map, or by the scale of said Map.

3.300 - Use Beyond a Boundary Line:

- 3.310 When the boundary line *separating the Business District and the Commercial District from each other* divides a lot, existing at the time such line is adopted, any building or use *allowed* in either district shall be *allowed* for the entire lot and any building or use permitted in either district shall be permitted for the entire lot.
- 3.320 When the boundary line *separating the Residence A District from a non-residential district* divides a lot, *existing at the time such line is adopted*, no non-residential uses, structures, appurtenances (such as disposal systems or detention/retention basins and the like), or site preparation work shall cross the boundary line into the Residence A District. If a *non residential* use utilizes any Residence A District land for coverage, density or similar requirements, the more restrictive requirements (See Section 7) of the districts involved shall apply.

SECTION 4 - PRE-EXISTING NON-CONFORMING USES, STRUCTURES, LOTS AND OTHER NON-CONFORMANCES

4.000 - Expansion of Existing Uses and /or Structures:

For purposes of this By-Law, an expansion shall include, but not be limited to, any or all of the following: greater coverage of land area with structures or paving or other non-vegetative uses; any increase in parking or storage or display of vehicles or goods; any increase in the volume of a structure *by means* of an addition, or enlargement; or, *the* placement of *accessory* structures or accessory uses such as gas pumps, storage sheds, outdoor displays and other similar structures or uses.

4.100 - Pre-existing Non-Conforming Uses:

- 4.110 A *pre-existing* non-conforming use may continue, provided that:
- A. No increase in the extent of the *pre-existing* non-conforming use of a structure or land shall be made, except:
 - 1. Agricultural and residential uses may be expanded within setback and building code limitations.
 - 2. Subject in each case to a *Special Permit* from the Zoning Board of Appeals under the Site Plan procedure specified in Section 10, other *pre-existing* non-conforming uses may be expanded up to twenty-five percent (25%) in volume, floor area and land utilization area greater than that which existed prior to that point in time at which the use became non-conforming. The Board shall not grant a *Special Permit* unless it finds that such expansion will not be substantially more detrimental to the neighborhood than the existing non-conforming use; and further that such expansion will *not result in any violation of the dimensional requirements of this By-Law as set forth in Section 7*. If such a *pre-existing* non-conforming use is located in the Water Resource Protection District, the criteria for the issuance of a *Special Permit* for that District shall apply (see Section 6.800).
- 4.120 If a *pre-existing* non-conforming use has been changed to a more restricted use, it shall not thereafter be changed to a less restrictive use.

- 4.130 If a *pre-existing* non-conforming use is discontinued or abandoned for a period of more than two (2) years, it shall not be re-established and any future use shall be in conformance with this By-Law. *For the purposes of this Section, a use shall be deemed to be discontinued or abandoned when the structure and/or lot on which the use occurs is marketed for any use other than its current use.*

4.200 - Pre-Existing Non-Conforming Structures:

- 4.210 A *pre-existing non-conforming structure* destroyed or damaged by fire, explosion or other catastrophe may be rebuilt or restored at the same location and again used as previously, provided that said owner shall apply for and obtain a building permit and start operations for restoring or rebuilding on said premises within twelve (12) months after such catastrophe, and reconstruction is completed and occupancy begun within two (2) years, and further provided that the structure as restored shall *not be greater* in volume or area than that authorized by Section 4.110A above, and that it shall be constructed in accordance with the *Massachusetts State Building Code*.
- 4.220 *Pre-existing* non-conforming structures may be expanded or the use of such may be changed, including change to a conforming use, provided that an application for Special Permit and Site Plan Review has been submitted to and approved by *the Planning Board acting as the Special Permit Granting Authority*. *Said Special Permit and Site Plan Review* shall not be approved unless the applicant *clearly* demonstrates that approval will not derogate from the intent of the Zoning By-Law and, further, that said approval shall not cause any *pre-existing* non-conforming condition to become more non-conforming.
- 4.230 If the use of a *pre-existing* non-conforming structure is discontinued or abandoned for a period of more than two (2) years, no use shall subsequently be established in or re-established in said non-conforming structure until said structure is brought into conformance with the current dimensional requirements of this Zoning By-Law. (See Section 7). *For purposes of this Section, a structure shall be deemed to be abandoned if no use whatsoever is conducted in said structure for a period of more than two (2) years.*

4.300 - Pre-Existing Non-Conforming Lots:

- 4.310 *Pre-existing non-conforming lots which meet the requirements of Section 5.020 of this By-Law may be utilized for any uses allowed or permitted for the zoning district in which said lot lies.*
- 4.320 Structures and uses on *pre-existing* non-conforming lots may be expanded or changed provided that an application for Special Permit and Site Plan Review has been submitted to the *Planning Board acting as the Special Permit Granting Authority*. *Said Special Permit and Site Plan* shall not be approved unless the applicant clearly demonstrates that approval will not derogate from the intent of the Zoning By-Law and, further, that said approval shall not cause any pre-existing non-conforming condition to become more non-conforming.
- 4.330 No *pre-existing* non-conforming lot shall be altered or changed so as to become more non-conforming.

4.400 - Other Pre-Existing Non-Conformances:

- 4.410 Pre-existing non-conformances other than uses, structures, and lots may continue, subject to the provisions of paragraph 4.420 below, and provided that there are no changes and/or alterations such as to cause subject non-conformances to become more non-conforming.
- 4.420 *Relative to existing uses, structures, or lots, when any change, expansion or alteration takes place so as to require an application for Special Permit and/or Site Plan Review, all pre-existing non-conformances other than uses, structures and lots shall be brought into compliance with the provisions of the then current Zoning By-Law. This requirement may be waived by the Reviewing Board if the Board determines that bringing said non-conformance into compliance is not feasible or not appropriate in a specific circumstance.*

SECTION 5 - GENERAL REGULATIONS FOR NEW CONSTRUCTION AND USES

5.000 - Relation to Local and State Law:

- 5.010 For the purposes of this By-Law, any lawful building or structure or use of a building, structure or land, or part thereof, may be constructed, altered, enlarged, repaired or moved, occupied and used for any purpose which does not violate any section of this By-Law or any of the provisions of the By-Laws of the Town of Hanover.
- 5.020 *Exemptions to Dimensional Requirements:* Dimensional requirements respecting lot area, frontage, width, yard or *building setback* provided in this By-Law or amendments thereto (see Section 7) shall be subject to the exemptions provided in Section 6 of Chapter 40A of the *Massachusetts* General Laws. Dimensional requirements shall not apply to a lot for single or two-family residential use which, at the time of recording or endorsement, whichever occurs sooner, was not held in common ownership with any adjoining land, conformed to the then existing requirements, *and contained a minimum of five thousand (5,000) square feet of area and fifty (50) feet of frontage.* Requirements respecting lot size and frontage for non-residential uses provided in this By-Law or the amendments thereto shall not apply to a lot recorded with the Registry of Deeds prior to the first publication of notice of the public hearing respecting this By-Law or amendments thereto unless adjoining land is vacant and in the same ownership.
- 5.030 A lot on which there existed, at the time of the adoption of this By-Law, two (2) or more dwelling houses may be divided into as many lots as there were dwelling houses thereon, notwithstanding any requirements respecting lot size and frontage, provided that the lot is divided in such a manner so as to result in lots which conform as nearly as possible to area and frontage requirements.
- 5.040 *Grandfathered Project Approvals:* The following projects shall be *allowed or permitted*, notwithstanding non-compliance with the requirements of this By-Law or amendments thereto provided that such construction is commenced within six (6) months after the issuance of the permit and, in cases involving construction, such construction is continued through to completion as continuously and expeditiously as is reasonable.

- A. Construction or uses for which a building permit has been legally issued.
 - B. Construction or uses for which a *Special Permit* from the Zoning Board of Appeals *acting as the Permit Granting Authority* or from the Planning Board *acting as the Special Permit Granting Authority* has been lawfully granted prior to the first publication of notice of the public hearing respecting this By-Law or any amendment thereto.
- 5.050 No building except docks, wharves or other structures to service boats shall be erected below the ten (10) foot contour line as shown on the latest U.S.G.S. map.

5.100 - Rate of Development:

- 5.110 For the purpose of protecting the public health, safety and welfare, *and to ensure that there is an adequate infrastructure to accommodate new growth*, all construction of dwelling units located within areas of land subject to the jurisdiction of the Planning Board under the Subdivision Control Law, *Sections 81K - 81GG of Chapter 41 of the Massachusetts General Laws, as amended*, shall not be developed at a rate greater than that *determined* by the schedule below. *Infrastructure improvements shall include, but not be limited to, water service, roadways, sidewalks, police and fire protection, education, and municipal facilities.*
- 5.120 Subdivisions containing sufficient area to provide for more than fifty (50) building lots shall not be developed by the construction of dwelling units at a rate greater than one-fifth ($1/5$) each year of the total lots shown on an approved definitive subdivision plan.
- 5.130 Subdivisions containing sufficient area to provide for fifty (50) building lots or less shall not be developed by the construction of dwelling units at a rate greater than one fifth ($1/5$) each year of the total lots shown on an approved definitive subdivision plan or by construction at a rate of not more than ten (10) dwelling units per year, whichever is greater.
- 5.140 If the determination of one-fifth ($1/5$) of the total lots produces a fraction of a lot, the authorization for each year is increased to the next whole number.
- 5.150 In any subdivision, the first year in which construction may begin

pursuant to this Section starts on the date the Planning Board endorses its approval on the plan and subsequent years start on the anniversaries of that date of endorsement.

5.200 - Construction Site Preparation Standard:

No site preparation work, including tree removal, shall begin until approval of a definitive subdivision plan and/or site plan (if either or both is/are required) and all other required permits have been secured. Subdivision plans and site plans shall show that the natural topography and vegetative cover is to be preserved as far as possible and practical. It is the intent of this By-Law to retain natural features which protect the health and welfare of the inhabitants and preserve the beauties and amenities of the Town. Any excavating, grading or filling shall be kept to an absolute minimum and limited to building foundations, sewage systems, parking areas, drives and other ancillary and incidental uses which may be *allowed or permitted*. No site preparation work shall be done in any buffer areas or in other areas which are not to be utilized in conformity with the dimensional requirements of Section 7. Removal or deposition of gravel, loam or similar materials shall be clearly incidental to the necessary site preparation work *unless* the gravel removal is being conducted in conformance with the *General By-Laws* of the Town of Hanover *and only after* the issuance of all necessary permits.

5.300 - Accessory Structures:

A detached accessory structure, *including but not limited to, a garage, tool shed, or swimming pool*, may be erected in the rear or side yard *only*, provided that it conforms with the *setback* requirements of the *zoning* district in which it is located. An *addition* to a principal building shall be considered an integral part thereof, and *may be allowed or permitted* only if it conforms with all applicable *setbacks* of the district in which the principal building is located. To be considered accessory to the use of a dwelling unit, a swimming pool shall be used by the residents of the premises and their guests *only*. The pool shall be securely fenced to a height of not less than four (4) feet.

5.400 - Signs:

Signs shall be permitted in all districts provided that they are in conformance with the *Town of Hanover Sign By-Law*.

5.500 - Mobile Homes and Storage or Utility Trailers:

No area in any *zoning* district shall be occupied or used by a trailer or mobile home for a period of time in excess of thirty (30) days during any one (1) calendar year, unless a permit for the trailer or mobile home has been issued by the *Zoning Board*

of Appeals, *acting as the Permit Granting Authority*, for a *period of time* of not more than one (1) year.

5.600 - Outdoor Storage:

Except as specifically *allowed or permitted* in this By-Law, there shall be no outdoor storage or display of any vehicles, boats, building materials, goods for sale, or other articles in any *non-residential zoning* district within the Town. This shall include, *but not be limited to*, any of the above which may be in the process of assembly, repair or renovation or which may have been taken in trade. The storage of any vehicles, boats, materials, goods or other similar articles in a warehouse use or operation shall be limited to inside storage *only*.

5.700 - Lots in a Wetland or Well Protection Zone:

No portion of *any* lot in a wetland or in a Well Protection Zone shall be used to meet any of the *dimensional* regulations of Section 7.

SECTION 6 - USE REGULATIONS

Any use not specifically enumerated in this Section shall not be allowed or permitted in any zoning district within the Town.

6.000 - Residence A District:

The Residence A District is intended for rural, residential and non-commercial uses.

6.010 Uses Allowed The following uses are *allowed* in the Residence A District.

- A. Conservation areas for water, water supply, plants and wildlife, and dams necessary for achieving this purpose.
- B. Farming and horticulture, including raising, harvesting and storing crops, truck gardening, grazing and poultry raising, provided that:
 1. no buildings are located within one hundred (100) feet of a district boundary line or way line;
 2. animals *allowed* to graze within one hundred (100) feet of a district boundary line or way line shall be enclosed by fencing; and
- C. Orchards, nurseries, forests and tree farms, provided that all logging equipment, spraying equipment or other equipment necessary for these uses is stored in an enclosure subject to the provisions of subparagraph B.1., above, relative to the location of farm buildings.
- D. Barns, stables and kennels for pets and animals as either an accessory use or for commercial purposes, subject to the provisions of subparagraph B. above of this Section.
- E. One (1) single-family dwelling per lot.
- F. Display and sale or offering for sale of farm produce providing that such produce is raised on the premises and sold by the owner or the resident of the land, and provided that any stand or other structure shall not be located within twenty-five (25) feet

of any *way line* or side line and provision shall be made for off street parking in accordance with Section 9.

- G. Accessory uses, including such normal accessory uses as private garages, storage sheds, tennis courts, swimming pools and *other accessory structures*.
- H. An incidental home occupation which does not employ or utilize non-resident personnel on the premises and which does not *alter the* exterior appearance of the structure, including the use of signs. Other home occupations or professional offices shall comply with the provisions of Section 6.020 below.

6.020 Uses Permitted by Special Permit. The following uses may be permitted upon application to and *the granting of a Special Permit* by the Zoning Board of Appeals, *acting as the Permit Granting Authority*, under the procedures specified in Section 13. The Special Permit may be granted provided that the applicant clearly establishes that:

1. the use shall not derogate from the intent of the Zoning By-Law;
 2. the use shall not interfere with the safety and privacy of adjoining properties; and
 3. the use shall not cause an immediate or potential devaluation of property values of adjoining properties and the general area.
- A. Boarding houses or rooming houses for not more than four (4) persons, provided that the house is primarily occupied as a private residence and the number of rooms devoted to this use shall not exceed twenty percent (20%) of the total rooms and provided further that this use is clearly incidental to and secondary to the primary use as a residence.
 - B. Professional office or customary home occupation, provided that:
 1. the use is clearly incidental to and secondary to the primary use as a residence;
 2. the profession or customary home occupation is conducted by the owner or resident of the premises;

3. no noise, vibration, smoke, dust, odors, heat, glare, unsightliness or other nuisance is produced which may be discernible from other properties or public ways;
4. there is no public display of goods or wares;
5. there is no exterior storage of material or vehicles or equipment and no exterior evidence of a non-residential use of the premises except for signs as may be permitted by the *Town of Hanover Sign Bylaw*;
6. there is adequate off-street parking for *all* employees and visitors.

C. Conversion of a dwelling that has existed for ten (10) years or more to allow for the inclusion of a second dwelling unit provided that:

1. the use is clearly incidental to and secondary to the primary use as a residence;
2. the external appearance of the structure shall not be changed;
3. there shall be sufficient floor area as specified in Section 7.610 of this Bylaw;
4. septic disposal systems shall meet with the approval of the Hanover Board of Health; and
5. no detached accessory buildings, *including, but not limited to*, garages or barns, shall be utilized for this purpose.

D. Museums and playgrounds.

E. Private schools, nursery schools and colleges, provided that there are adequate parking areas in accordance with Section 9, and there is no external change of appearance of any dwelling converted for such use.

F. Cemeteries, hospitals, sanitariums or other medical institutions including nursing homes, non-profit research laboratories or charitable institutions.

- G. Membership clubs for recognized charitable, fraternal, religious, veteran or similar non-profit organizations.
- H. A use which is essentially of a similar character to the *allowed or permitted* uses of the district and which does not derogate from the purpose of the district.

6.100 - Business District:

The Business District is intended to provide consumer goods and services on a retail level primarily within a structure.

6.110 Uses Allowed. The following uses are *allowed* in the Business District.

- A. Retail store or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building.
- B. Business or professional offices or banks.
- C. Restaurants, catering services, and other places for serving food to be consumed within the structure. If the total volume of "take-out" is less than *five percent (5%)* of the total volume, such use may be allowed if it is obviously incidental to the main business, and is obviously of a minor and secondary nature.
- D. Parking areas or garages for use of employees, customers, or visitors, subject to the design standards *and provisions* of Section 9 of this By-Law.
- E. Public, religious or denominational schools, churches and religious buildings or uses.
- F. Membership clubs.
- G. Accessory buildings and uses.
- H. Signs, provided that such are *in conformance with the Town of Hanover Sign Bylaw*.
- I. *Day Care Centers*.
- J. Agriculture, horticulture, or floriculture, provided that such uses are located on parcels containing *a minimum of five (5) acres*.

6.120 Uses Permitted by Special Permit from the Zoning Board of Appeals.
The following uses may be permitted *upon application to and granting of a Special Permit* by the Zoning Board of Appeals as provided in Section 13. The following uses require the approval of the Board and shall be based on *its* satisfaction that the use is appropriate and is not prejudicial to the future development of the Business District.

- A. Single family detached dwellings, subject to the *dimensional* requirements applicable in the Residence A District. (See Section 7.)

6.130 Uses Permitted by Special Permit from the Planning Board. The following uses may be permitted *upon application to and granting of a Special Permit* by the Planning Board. *The applicant shall clearly demonstrate to the Board* that such uses are appropriate to the specific site and that they will not create a nuisance and not cause a derogation of the intent of this Bylaw by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.

- A. Uses permitted in a Limited Industrial District providing that said uses meet the conditions specified in Section 6.420.
- B. Multiple-use buildings, containing one or more business facilities and not exceeding one (1) single-family residential unit which is secondary to the business use of the premises, subject to the determination by the Board that the lot frontage, size and proposed residential floor area and setbacks either meet the requirements applicable in the Residence A District or are appropriate for the particular use proposed.
- C. Industrial right-of-way, where access to land located in the Limited Industrial District, *the Industrial District or the Fireworks District* is separated from a public way by the Business District.

6.200 - Commercial District:

The Commercial District is intended to provide consumer goods and services *on a retail level*, goods and services for transients or tourists, and non-consumer goods and services.

6.210 Uses Allowed. The following uses are *allowed* in the Commercial District.

- A. Uses *allowed* in the Business District pursuant to Section 6.110.

- B. Museums.
- C. Gift shops and places for display or sale of hand-crafts primarily within a structure.
- D. *Day Care Center.*

6.220 Uses Permitted by Special Permit. The following uses may be permitted *upon application to and granting of a Special Permit* by the Planning Board. *The applicant shall clearly demonstrate to the Board* that such uses are appropriate to the specific site and that they will not create a nuisance or not cause a derogation of the intent of this Bylaw by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.

- A. Hotels, motels or boarding/rooming houses.
- B. Restaurants or other places for food service primarily within a structure but with incidental service not confined within said structure.
- C. Salesrooms for bicycles, boats, farm equipment and similar equipment provided that the display of goods occurs primarily within a structure and that any exterior storage or display is confined to yards screened from public view by fencing and vegetation.
- D. Membership Clubs but only for recognized charitable, fraternal, religious, veteran or similar non-profit organizations.
- E. Contractors' yards and storage yards provided that all materials and equipment are stored within a structure or shielded from public view by fencing and vegetation.
- F. Funeral homes, mortuaries or crematories.
- G. Passenger depots and terminals.
- H. Utility structures and warehouses.
- I. Theaters, halls, bowling alleys, skating rinks, clubs and other places of indoor amusement or assembly.
- J. Agriculture, horticulture or floriculture.

- K. Industrial right-of-way, where access to land located in the Limited Industrial District, *the Industrial District or the Fireworks District* is separated from a major public way by the Commercial District.
- L. Any use permitted in the Limited Industrial District, in accordance with the conditions specified in Section 6.420 *provided that the applicant has applied for and received a Special Permit from the Planning Board. The applicant shall make a satisfactory demonstration to the Board* that such uses are appropriate to the specific site and that they will not create a nuisance and not cause a derogation of the intent of this Bylaw by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.

6.230 Uses Permitted by Special Permit and with Site Plan Approval. *The following uses are permitted upon application to and granting of a Special Permit and Site Plan Approval by the Planning Board, acting as the Special Permit Granting Authority, as specified in Section 10 of this Bylaw. The applicant shall clearly demonstrate to the Board that said use is safe and appropriate for the specific site and that it will not create a nuisance by virtue of noise, odor, smoke, vibration, traffic generated or unsightliness.*

- A. *Gas stations, service stations, repair garages and automobile dealerships, provided that:*
 1. Repairs shall be limited to minor repairs and adjustments unless conducted within a structure.
 2. There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery or in an enclosed structure.
 3. The area used to service, repair or store vehicles shall be paved to the satisfaction of the Board of Public Works.
 4. The parking provisions of Section 9 shall apply to these uses.
 5. There shall be no other use on the lot excepting that a secondary use may be permitted by the Planning Board

but only if it is closely related to and clearly incidental to the primary use under this Section.

6. Gas pumps, canopies, air meters or similar accessory equipment shall be considered structures for the purposes of lot coverage, density, setback and yard requirements.
- B. The use of land or structures for an Adult Bookstore or an Adult Motion Picture Theater may be *permitted* in the Commercial District provided that no other Adult Bookstore, or Adult Motion Picture Theater or an establishment licensed under Chapter 138, Section 12 of the Massachusetts General Laws, exists within one thousand (1000) feet of the proposed site, and further provided that the proposed structure for such use is not within eight hundred (800) feet of the Residence A District. Such proposed use shall require a Site Plan Review in accordance with the provisions of Section 10 and the Special Permit Granting Authority shall be the Planning Board. Before granting a Special Permit, the *Board* shall determine that the proposed structure and site will meet or will be altered to meet all provisions of this Bylaw including coverages, densities, buffer areas, parking requirements and Site Plan Review, and that the use will not be a traffic or safety hazard and will not be a public nuisance. The *Planning Board* shall specifically approve all signage to be used and shall review wording and artwork to assure that it conforms with all sections of the *Town of Hanover Sign Bylaw* and that such wording and artwork shall not create a public nuisance.

6.300 - Planned Shopping Center District:

The purpose of the Planned Shopping Center District is to provide for the orderly maintenance, development and growth of the district as an area shopping center *which* provides goods and services at retail for residents, transients and tourists and to assure that shopping centers in the district are allowed to evolve and change in a commercially competitive manner consistent with current industry standards for area shopping centers, while avoiding commercial blight and protecting the Town from adverse impacts associated with unplanned development.

6.310 Uses Allowed:

- A. *Uses allowed* in the Commercial District. (Section 6.210).

6.320 Uses Permitted by Special Permit:

- A. Uses permitted by Special Permit in the Commercial District subject to the same conditions (Section 6.220).

6.330 Uses Permitted by Special Permit *and with Site Plan Approval*:

- A. Uses permitted by Special Permit *and with Site Plan Approval* in the Commercial District subject to the same conditions (Section 6.230, subparagraph A., only).

6.400 - Limited Industrial District:

The Limited Industrial District is intended for use by research laboratories, office buildings and light industries which are compatible with a low-density, rural community.

6.410 Uses Permitted by Special Permit. The following uses may be permitted upon application to and granting of a Special Permit by the Planning Board, acting as the Special Permit Granting Authority, subject to the conditions specified in Section 6.420, below.

- A. Research laboratories with incidental assembly or test manufacturing.
- B. Manufacturing enterprises and retail sales only as a secondary use for goods manufactured on the premises.
- C. Building materials salesrooms, utility structures, contractors' yards, storage warehouses and buildings and wholesale distribution plants, provided that all loading and unloading is done at the rear or side of the building and that all storage and/or display of goods shall be within the building.
- D. Printing or publishing establishments, photographic studios, medical or dental laboratories, *provided that all loading and unloading is done at the rear or side of the building and that all storage and/or display of goods shall be within the building.*
- E. Cafeterias for employees and other normal accessory uses, when contained in the same structure as a permitted use and not open to the general public.
- F. Business and professional offices.

- G. Agriculture, horticulture or floriculture, provided that such uses are located on parcels containing a minimum of five (5) acres.
- H. Barns, stables and kennels for pets, guard dogs, or commercial purposes. provided that they meet the provisions of Section 6.010 of this By-Law.

6.420 Conditions for Development in a Limited Industrial District. *The following conditions shall apply to all new development projects in a Limited Industrial District:*

- A. Building construction: All buildings shall be constructed in accordance with the *Massachusetts State Building Code, 780 CMR as may be amended.*
- B. Odor, dust and smoke: No such emissions shall be discernible beyond the property line or, in the case of an industrial park development or multiple use of the property, beyond one hundred (100) feet from the building generating the emission, except that in no case shall the discharge from any source exceed the following limits:
 - 1. Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three (3) minutes in any one (1) hour.
 - 2. Lime dust, as calcium oxide (CaO), measured at the property line of any lot on which the activity creates such dust, shall not exceed the ten (10) micrograms per cubic meter of air.
 - 3. Total particulate matter measured at all stacks or other points of emission to the air shall not exceed thirty (30) grams per hour per acre of land included in the lot.
 - 4. All measurements of air pollution shall be completed with procedures and equipment approved by the Building Inspector and shall be of the latest generally recognized development and design readily available.
 - 5. No open burning *shall be allowed or permitted.*

6. Odors shall not exceed the smallest values given in Title III (Odor Thresholds) in Chapter 5 of the "Air Pollution Manual," Manufacturing Chemists Association, Inc., Washington, D.C., *according to the latest edition of such table for the compounds described therein.*
- C. Noise: The noise generated on any lot, measured at any point beyond the property lines of the lot on which the noise source is located, shall not cause the total sound level to be more than three (3) decibels above the natural ambient sound level except as provided below:
1. For not more than five (5) minutes in any one (1) hour the noise generated shall not cause the total sound level to be more than ten (10) decibels above the natural ambient sound level.
 2. For not more than sixty (60) minutes in any seven (7) day period the noise generated shall not cause the total sound level to be more than thirty (30) decibels above natural ambient sound level.
 3. Noise making devices which are maintained and are utilized strictly to serve as safety warning devices are excluded from these regulations.
 4. Measurements shall be conducted by personnel approved by the Building Inspector using the "A" weighing on a standard commercial total sound level instrument approved by the Building Inspector. For the purpose of this Bylaw the natural ambient sound level shall be assumed to be forty (40) decibels above 0.0002 microbar during the hours of daylight, and thirty (30) decibels above 0.0002 microbar at all other times.
- D. Heat, glare, vibration and radiation: No heat, glare or vibration shall be discernible from the outside of any structure, and all radiation shall be contained within a structure.
- E. Exterior lighting: No exterior lighting, other than street lighting approved by the Selectmen, shall shine on adjacent properties or towards any street in such manner as to create a nuisance or hazard.

- F. Storage: All materials, supplies and equipment shall be stored in accordance with The Rules and Regulations of the Board of Fire Prevention Regulations issued pursuant to Chapter 148, Section 10, of the Massachusetts General Laws and shall be screened from view from public ways or abutting properties by an opaque fence or screening at least six (6) feet high but not more than twenty (20) feet high.
- G. Waste disposal and water supply: Regulations of the *Department of Environmental Protection (314 CMR 2.00 through 7.00 and 310 CMR 15.00)* and the Hanover Board of Health shall be complied with and such compliance shall be indicated on the approved Site Plan.
- H. Screening, surfacing, parking and signs: All screening, surfacing, parking and signs shall be in accordance with the provisions of Sections 8 and 9 of this Bylaw *and the Town of Hanover Sign Bylaw*.

6.500 - Industrial District:

The purpose of the Industrial District is to promote the redevelopment of older industrial areas in a way beneficial to both the business owners and the residential abutters.

- 6.510 Uses Permitted by Special Permit. The following uses may be permitted *upon application to and the granting of a Special Permit* by the Planning Board, *acting as the Special Permit Granting Authority*, subject to the conditions specified in Section 6.420.
 - A. Uses permitted by Special Permit in the Limited Industrial District (Section 6.410).
 - B. Contractors' yards and storage yards, provided that all materials and equipment are stored within a structure or shielded from public view by fencing and vegetation in accordance with Section 8, of this By-Law.
 - C. Utility structures and warehouses.
 - D. Boat storage and repair.
- 6.520 Special Permit for Increased Lot and Building Coverage. Building coverage and lot coverage may be increased beyond the limits specified in Section 7 *if a Special Permit is obtained* from the Planning Board,

acting as the Special Permit Granting Authority. Building coverage may be increased to *thirty-five percent (35%)* of buildable upland and lot coverage may be increased to *seventy percent (70%)* of buildable upland subject to the following criteria and requirements:

- A. For lots fronting on a public way or across the public way *in which* residential uses and/or the Residence A District are located, the minimum front buffer shall be fifty (50) feet and landscaping requirements shall be two and one-half (2 ½) times the requirements specified in Section 8 of this By-Law.
- B. For lots abutting a residential use and/or the Residence A District at the side or rear lot lines, landscape plantings shall be double the requirements specified in Section 8 of this By-Law.
- C. The Planning Board shall consider the project's impact on traffic, neighboring streets, scale of the proposed building, drainage, environmental resources, and residential neighborhoods that abut the project locus or are used for vehicular access to the project within *one thousand (1,000)* feet of the lot.

6.530 Special Permit for Small Additions. Notwithstanding the above provisions, the owner of a lot may obtain a Special Permit from the Planning Board, *acting as the Special Permit Granting Authority* for a one-time addition to an existing structure up to *five hundred (500)* square feet in size within setbacks. The applicant *shall clearly demonstrate* to the Planning Board that the addition does not create a nuisance and does not derogate from the intent of this Bylaw by virtue of noise, odor, smoke, vibration, traffic generated, unsightliness or impact on abutters. In no case shall such an expansion be made within *two hundred (200)* feet of a dwelling unit or within ten (*10*) feet of a property line.

6.600 - Fireworks District:

The purpose of the Fireworks District is to accommodate the existing uses and structures in that district and to promote the redevelopment of older industrial areas in a way which is beneficial to current and potential businesses and to the residents of the Town.

6.610 Uses Permitted by Special Permit. The following uses may be permitted *upon application to and the granting of a Special Permit* by the Planning Board, *acting as the Special Permit Granting*

Authority, subject to the conditions specified in Section 6.420 of this By-Law.

- A. Uses permitted by Special Permit in the Limited Industrial District (Section 6.410).
- B. Uses permitted by Special Permit in the Industrial District (Section 6.510).

6.620 Special Dimensional Regulations permitted by Special Permit. Notwithstanding the dimensional requirements set forth in Section 7, existing facilities and structures in the Fireworks District on an undersized lot may be reconstructed, rehabilitated, enlarged or altered after the issuance of a Special Permit by the Planning Board, *acting as the Special Permit Granting Authority*, subject to the following conditions:

- A. The existing footprint of the structure shall not be expanded unless such expansion can be achieved in accordance with the dimensional requirements of Section 7, other than minimum lot size;
- B. On lots that exceed the existing allowable dimensional regulations of Section 7, a structure may be enlarged only by the addition of a second story where one did not previously exist. On lots that meet the dimensional regulations of Section 7, except for minimum lot size, a structure may be enlarged by the expansion of the first floor or by the addition of a second story;
- C. The lot shall be landscaped in accordance with Section 8;
- D. Buffers shall be provided as set forth in Section 8; except in those instances where the standards cannot be met, the remaining unbuilt portion of the lot shall serve as the buffer area;
- E. Outdoor storage of vehicles or equipment shall be limited to two (2) and they shall be stored on paved areas with adequate provisions for collecting stormwater runoff; and
- F. Parking shall be provided as required by Section 9 unless specifically waived by the Planning Board.

6.630 Special Permit for Increased Lot and Building Coverage. Building coverage and lot coverage may be increased beyond the limits specified in Section 7 if a Special Permit is obtained from the Planning Board, acting as the Special Permit Granting Authority. Building coverage may be increased to *thirty-five percent (35%)* of buildable upland and lot coverage may be increased to *seventy percent (70%)* of buildable upland subject to the following criteria and requirements:

- A. For lots fronting on a public way or across the public way in which residential uses and/or the Residence A District are located, the minimum front buffer shall be fifty (50) feet and landscaping requirements shall be two and one-half (2 ½) times the requirements specified in Section 8 of this By-Law.
- B. For lots abutting a residential use and/or the Residence A District at the side or rear lot lines, landscape plantings shall be double the requirements specified in Section 8 of this By-Law.
- C. The Planning Board shall consider the project's impact on traffic, neighboring streets, scale of the proposed building, drainage, environmental resources, and residential neighborhoods that abut the project locus or are used for vehicular access to the project within *one thousand (1,000)* feet of the lot.

6.640 Special Permit for Small Additions. Notwithstanding the above provisions, the owner of a lot owner may obtain a Special Permit from the Planning Board, acting as the Special Permit Granting Authority, for a one-time addition to an existing structure up to *five hundred (500)* square feet in size within setbacks. The applicant shall clearly demonstrate to the Planning Board that the addition does not create a nuisance and does not derogate from the intent of this Bylaw by virtue of noise, odor, smoke, vibration, traffic generated, unsightliness or impact of abutters. In no case shall such an expansion be made within *two hundred (200)* feet of a dwelling unit or within ten (10) feet of a property line.

6.700 - Flood Plain District:

The Flood Plain Protection District is intended to provide that land subject to seasonal or periodic flooding shall not be used for residential or other purposes when such use will endanger the health and safety of the occupants thereof, or of the public generally; to assure the continuation of the natural flow pattern of water courses necessary to provide adequate and safe flood water storage capacity to protect persons and property against the hazards of flood inundation; to protect, preserve and maintain the water table and water recharge areas so as to preserve

present and potential water supplies; and to preserve the natural character of land within the District.

- 6.710 Applicability. The Flood Plain Protection District shall be considered *to* overlap other zoning districts and includes all special flood hazard areas designated as Zone A, A1-30, in the Flood Insurance Rate Map as described in Section 3.120 Subsection A.1. All water bodies encompassed by the Flood Plain Protection District shall be within the District.
- 6.720 Restrictions. Within a Flood Plain Protection District no building, wall, dam, bridge or other structure shall be erected, constructed, altered, enlarged, otherwise created, or moved for any residence or other purpose, except as provided in this Section.
- 6.730 No dumping, filling, excavating or transferring of any material, including, but not limited to, trash, rubbish, garbage or other waste materials, gravel, sand or loam shall be *allowed or* permitted, except as provided in this Section.
- 6.740 In the floodway designated on the Flood Boundary and Floodway Map, all encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the one hundred (100) year flood. Any encroachment meeting the above standard shall also comply with the flood plain requirements of Section 744 of the Massachusetts State Building Code, as amended.
- 6.750 Within Zone A as designated on the Flood Insurance Rate Map and where the base flood elevation is not provided, the applicant shall obtain any base flood elevation data and shall provide it to the Planning Board for review and approval. The applicant shall provide evidence that it can meet the elevation or floodproofing requirements, as appropriate, of the Massachusetts State Building Code, as amended.
- 6.760 Uses Allowed. *The following uses are allowed in a Flood Plain District.*
- A. Conservation of soil, water, plants and wildlife.
 - B. Any woodland, grassland, wetland or agricultural use of land not requiring filling or excavating.

- C. Forestry, grazing, farming, nurseries, truck gardening and harvesting of crops not requiring filling or excavating.
- D. Proper operation and maintenance of dams and other water control devices, including temporary alteration of the water level for emergency purposes.
- E. Accessory uses, such as flower or vegetable gardens, lawns, pasture or forestry areas.
- F. Emergency repair and ordinary maintenance undertaken by the Town or the Commonwealth of Massachusetts within a public right-of-way in existence at the time of adoption of this Section.

6.770 Uses Permitted by Special Permit. *The following uses are permitted upon the granting of a Special Permit from the Planning Board, acting as the Special Permit Granting Authority, subject to the procedure established in Section 6.790:*

- A. Construction, operation and maintenance of dams and other water control devices.
- B. Bridges and like structures *providing* passage between lands of the same owner, provided that such bridges and structures shall be constructed, maintained and used at the expense and risk of such owner.
- C. Recreation, including boating, fishing, hunting (where legally permitted) and landings not requiring fill or excavating.
- D. Driveways and roads, but only where alternative means of access are impractical.
- E. Accessory structures for uses allowed, permitted or exempted in Sections 6.760, 6.770 and 6.780.

6.780 Exemptions. *The following exemptions shall apply in a Flood Plain District.*

- A. Existing buildings and structures within the Flood Plain Protection District may be repaired, rebuilt, modified or flood-proofed, for uses that are allowed or permitted or are legally pre-existing non-conforming in the underlying zoning district within which the land is situated in accordance with Section 4 provided

that such repairs or modifications are accomplished in a manner which does not increase ground coverage.

- B. Any building for which a building permit was issued, or a notice of intent under Section 40 of Chapter 131 *of the Massachusetts General Laws* was filed, prior to the date of adoption of this Section of the Bylaw may be constructed and built in accordance with plans lawfully approved and thereafter may be repaired, rebuilt, modified or flood-proofed in a manner which does not increase ground coverage.

6.790 Procedure. Any person seeking a Special Permit pursuant to Section 6.770, above, shall submit to the Planning Board *twelve (12)* copies of an application for a *Special Permit* to undertake such an action within the Flood Plain Protection District. *The Planning Board* shall transmit one (1) copy of the application to the Board of Health and to the Conservation Commission.

- A. The Planning Board shall not approve plans submitted for a Special Permit unless it has received a report from the Board of Health and the Conservation Commission, or thirty-five (35) days have elapsed after transmittal of said application without receipt of such a report.
- B. The Planning Board shall hold a public hearing in accordance with the provisions of Section 11 of Chapter 40A *of the Massachusetts General Laws* within sixty-five (65) days of the filing of a plan for approval under this Section.
- C. The Planning Board may approve plans submitted under this Section if it finds that, in addition to the purposes established above, the plans make adequate provisions for all of the following:
 - 1. the protection, preservation and maintenance of the water table and water recharge areas;
 - 2. the preservation of the natural river channel plus sufficient width of over bank areas for the passage of flood flows;
 - 3. the retention of existing flood water storage capacity;

4. the design of proposed construction in a manner which ensures anchoring to prevent flotation, collapse and/or excessive movement of the structure; and
 5. the design of public utilities in a manner which will minimize or eliminate flood damage.
- D. The Planning Board may approve plans submitted in accordance with the above if it finds that the land to be utilized is:
1. not within the Flood Plain Protection District due to location and/or elevation;
 2. not subject to flooding;
 3. capable of providing suitable drainage conditions for any use which would otherwise be allowed or permitted in the underlying zoning district; and
 4. such that it does not interfere with the general purposes for which the Flood Plain Protection District is established.
- E. *Except for Uses Permitted under Section 6.770A., B. & D., above, and for uses and structures permitted under Section 6.980 of this By-Law,* no approval shall be granted for construction within either twenty-five (25) feet of the centerline of any brook, stream or river or twenty-five (25) feet of the high waterline of any water body, whichever is greater.
- F. Any person who wishes to obtain approval of plans for one of the above reasons shall submit, as part of an application for Special Permits submitted in accordance with this Section, a plan certified by a registered Land Surveyor for the lot on which said structure is intended to be constructed showing elevations of land contours at one (1) foot intervals to the same base as that utilized in preparation of the Flood Plain Protection District maps.

6.800 - Water Resource Protection District:

The purpose of the Water Resource Protection District is to protect the water supply of the Town of Hanover from harmful and hazardous pollutants and contaminants by preventing the degradation of surface and ground water supplies

within the district.

6.810 Applicability.

- A. The Water Resource Protection District shall be considered as overlaying other zoning districts.
- B. The Water Resource Protection District includes several Well Protection Zones and an Aquifer Protection Zone.
- C. The Well Protection Zones are based on a thirty (30) day travel time contour resulting from seven (7) day continuous pumping tests as further defined on specific maps for each well field. Said maps are a part of the Hanover Zoning Map.
- D. The Aquifer Protection Zone is defined as that area in which the permeability, saturated thickness and direction of surface or ground water flow indicate a direct supply of water to the Town of Hanover wells.

6.820 Administrative Authority.

- A. The Hanover Planning Board *shall be* the Special Permit Granting Authority for purposes of this Section. The Hanover Planning Board *shall* have the authority to grant Special Permits as herein defined subject to the provisions of this Bylaw. A Special Permit may be granted if the Hanover Planning Board determines, in conjunction with other Town agencies as specified in Section 10, that the intent of this Section *and* the specific criteria of both this Section and Section 10 are met. In making such determination, the *Board* shall consider the simplicity, reliability and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed. In particular, for all new development, and expansion of existing non-residential and multi-family residential development within the district, groundwater quality shall not violate state and federal drinking water standards at the downgradient property boundary.
- B. This Section shall be administered concurrently and in *conformance* with the requirements for Site Plan Approval established by Section 10 of this Bylaw, as amended.
- C. Reports and recommendations of the Board of Public Works and the Board of Health as pertaining to water supply protection and

sewage disposal respectively shall be deemed conclusive by the *Planning Board* provided *that the* Board of Public Works and *the* Board of Health have implemented and published reasonable rules and regulations governing the same within the district, or that the Town adopts a bylaw establishing a standard of performance for waste disposal systems.

- D. *Whenever Site Plan Approval is required in the Water Resource Protection District, the applicant shall have obtained a Certificate of Water Quality Compliance from the Board of Public Works. Lacking said Certificate shall be cause for denial of the Site Plan.*

6.830 Use Regulations. Uses which may be found or determined to be hazardous to the water supply of the Town of Hanover or *uses* which fail to meet the requirements of the regulations established by the Board of Public Works, *the* Board of Health and/or Planning Board, shall be disapproved.

6.840 Prohibited Uses. Certain uses shall be deemed to be hazardous to the water supply of the Town of Hanover and *are therefore prohibited.* *These uses* shall include, but not be limited to, the following:

- A. Commercial establishments or municipal facilities for the washing, servicing, or repair of motor vehicles, airplanes, or boats.
- B. Motor vehicle body shops or repair garages.
- C. Junk and salvage yards.
- D. Trucking or bus terminals.
- E. Dry cleaning establishments and/or coin or commercial laundries where cleaning is performed on the premises.
- F. Storage and/or sale of petroleum or refined petroleum products, except normal storage of heating oil of less than *two thousand* (2,000) gallons within the building which it will be used to heat.
- G. Sale, storage or disposal of engine coolants or anti-freeze.
- H. Use, storage, or disposal of hazardous waste as defined by the Hazardous Waste Regulations under the Provisions of Chapter 21C of the *Massachusetts* General Laws.

- I. Mining operations or gravel removal.
- J. Hairdressing and beauty shops.
- K. Discharge of wastewater containing other than normal sanitary waste.
- L. Sanitary landfills, disposal of solid wastes other than brush and stumps, and disposal of brush and stumps by burial with less than four (4) feet of clearance above the observed maximum water table.
- M. Individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than *one hundred and ten* (110) gallons of sewage per day per quarter acre under one (1) ownership, or *four hundred and forty* (440) gallons of sewage per day on any one (1) acre under one ownership, whichever is greater, except the replacement or repair of an existing system that will not result in an increase in design capacity above the original design, except as may be ordered by the Board of Health, and specifically 314 CMR 5.10(3)(a), (b) and (c).
- N. Outside storage of road salt or other de-icing chemicals.
- O. Disposal of snow that contains de-icing chemicals and that has been brought in from outside the Water Resource Protection District.
- P. Commercial establishments for the plating, finishing, etching, or polishing of metals or semiconductors.
- Q. Manufacture of semiconductors or other electronic components.
- R. Electronic circuit assembly on a commercial scale.
- S. Chemical or bacteriological laboratories.
- T. Underground storage tanks for petroleum products or any toxic or hazardous substance, except for replacement or upgrading of existing storage without increasing capacity provided that there is compliance with all local, state and federal laws.
- U. Storage of manure, not for the primary purpose of agriculture.

- V. Storage of animal manure, unless covered or contained.
- W. Use of septic system cleaners which contain toxic chemicals.
- X. Painting, wood-preserving, or stripping paint on a commercial scale.
- Y. Commercial establishments for printing, photocopying, or photographic processing.
- AA. Storage of herbicides, pesticides, or fertilizers in amounts greater than *fifty* (50) gallons or *two hundred and fifty* (250) pounds dry weight.
- BB. Any other use which involves as a principal activity the manufacture, storage, use, or disposal of toxic or hazardous material, as defined by the Hazardous Waste Regulations under the provisions of Chapter 21C of the *Massachusetts* General Laws, except as may be allowed by Special Permit below.

6.850 *Uses Allowed in the Water Resource Protection District. The following uses are allowed in the Water Resource Protection District.*

- A. *Uses Allowed in a Well Protection Zone: The following uses are allowed in a Well Protection Zone.*
 - 1. Existing residential uses.
 - 2. Non-intensive agricultural uses such as, but not limited to, pasture, light grazing, hay, gardening, nursery, conservation, forestry, and harvesting provided that the use of fertilizers, herbicides, pesticides, and other similar leachable materials receives the advance written approval of the Board of Public Works and are not stored outdoors or in any other manner which could *cause* leakage thereof.
 - 3. Wood lot management and selected tree cutting with the approval of the Board of Public Works.
 - 4. Emergency repairs, demolition and/or removal of existing structures as may be required by law for public safety purposes.

- B. *Uses Allowed in an Aquifer Protection Zone: The following uses are allowed in an Aquifer Protection Zone.*
1. Any use *allowed* in a Well Protection Zone with the same conditions (Section 6.850A.).
 2. All ordinary and customary uses associated with expansion, maintenance and upkeep of existing single or two-family residential dwellings.
 3. Residential development, *if allowed* in the underlying district, on building lots legally *created* prior to October 1, 1980.
 4. Residential development, *if allowed in the underlying district*, provided *that* each such lot shall consist of a *minimum of sixty thousand (60,000) square feet*. Said sixty thousand (60,000) square feet may include up to thirty thousand (30,000) square feet of area deemed wetlands provided that no structure or septic disposal system shall be placed on such wetlands except as may be *permitted* by the Hanover Conservation Commission *pursuant to Section 40 of Chapter 131 of the Massachusetts General Laws and its implementing regulations found at 310 CMR 10.00 et seq.*
 5. All existing or approved *streets*, ways and drainage structures.
 6. All ordinary and customary uses associated with the maintenance and upkeep of buildings and grounds of existing non-residential land uses and multi-family residential structures, *so long as there is no increase in floor area and* provided that the density regulations in Section 7 are not exceeded.
 7. Conservation of soil, water, plants and wildlife.
 8. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted; foot, bicycle and/or horse paths and bridges.

9. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply, and conservation devices.

6.860 Uses Permitted by Special Permit *in the Water Protection District: The following uses may be permitted in the Water Resource Protection District.*

A. *Uses Permitted by Special Permit in a Well Protection Zone:*
The following uses may be permitted *by the Planning Board, acting as the Special Permit Granting Authority*, in accordance with the procedures established under Section 6.820.

1. A one-time expansion of an existing use in an underlying district provided that such expansion shall not be greater than *fifteen percent (15%)* in volume and not greater than *fifteen percent (15%)* in floor area and not greater than *fifteen percent (15%)* in total lot coverage and land utilization. In addition, such expansion shall not result in any increase in non-conformance of use as those uses are restricted by this Section, and shall not result in any increase in non-conformance other than use.
2. Any access drive or roadway required to be placed over that portion of a lot that is in a Well Protection Zone shall be designed so as to allow runoff water to be channeled in a manner deemed safe by the Board of Public Works.

B. *Uses Permitted by Special Permit in an Aquifer Protection Zone:*
The following uses may be permitted *by the Planning Board, acting as the Special Permit Granting Authority*, in accordance with the procedures established under Section 6.820.

1. Any use not otherwise allowed or permitted which can satisfy the requirements of the regulations promulgated by the Board of Public Works and the Board of Health for the district and can satisfy all other applicable Bylaws.
2. Construction of single family residential *dwellings* on lots consisting of *a minimum of* thirty thousand (30,000) square feet of area exclusive of wetlands, provided that

the entire subdivision contains no more than the number of lots which would have been permitted in accordance with the standards established in Section 6.850B.4., and further provided that the remaining undeveloped land be conveyed:

- a. to the Town of Hanover and accepted by it for park or open space use;
 - b. to a non-profit organization, the principal purpose of which is the conservation of open space; or
 - c. to a corporation or trust owned or to be owned by the owners of lots or residential units within the subdivision.
3. Public or private golf courses.
 4. Earth removal and mining of land for on-site and/or off-site use, however, in no case shall said excavation be allowed closer than six (6) feet above the maximum high ground water elevation as determined by the Planning Board.
 5. Any new single family residential structure, multi-family structure, or non-residential structure, or any expansion of a non-residential or multi-family structure involving the retention of less than forty percent (40%) of the entire lot in a naturally vegetated state, or greater than fifteen percent (15%) impervious surface area over the entire lot, provided that rainfall shall be redirected for artificial recharge on the same lot.
 6. Privately owned sewage treatment facilities *in accordance with 314 CMR 15.00, as amended.*
 7. Any use which involves as an accessory activity the storage, use, or disposal of toxic or hazardous materials, but not including ordinary household use.
 8. A *pre-existing* non-conforming, non-residential or multi-family structure or use shall not be altered, reconstructed, extended or structurally changed without a Special Permit from the *Planning Board, acting as the Special Permit Granting Authority*, provided that *the*

Board finds that such alteration is not substantially more detrimental to the water resources than the existing non-conforming structure or use within the defined Water Resource Protection District. No Special Permit shall be granted for any alteration, reconstruction, extension or structural change of a *pre-existing* non-conforming structure or use without a specific finding by the *Planning Board* that the proposed alteration, reconstruction, extension or structural change will not violate any of the provisions of this Bylaw. It shall be the responsibility of the applicant proposing said alteration, reconstruction, extension or structural change to demonstrate to the *Planning Board* that the proposed alteration, reconstruction, extension or structural change will not violate any of the provisions of this Bylaw.

6.870 Area Permeability and Recharge in Underlying *Non Residential Zoning* Districts:

- A. Within the Water Resource Protection District, no lot shall be rendered impermeable by more than fifty percent (50%) of its area.
- B. All rain water which falls on paved areas or other impervious surfaces shall be channeled or otherwise directed water through oil and grease traps and sediment traps *in a manner* satisfactory to the Board of Public Works before being allowed to recharge the groundwater.
- C. Areas upon which vehicles travel, and/or are stored or parked shall be paved with impervious material and shall require the approval of the Board of Public Works and shall be designed *so as* to direct surface water runoff as specified above *in Section 6.870 B. of this By-Law*.
- D. Areas of a lot not used for *structures*, waste disposal *facilities*, parking or driveways shall remain in *a* natural state or shall be restored to the extent determined feasible by the Planning Board, acting as the Special Permit Granting Authority.

6.880 Special Provisions. *The following are Special Provisions within the Water Resources Protection District.*

- A. Well Protection Zone Boundary Line. Where the Well Protection Zone boundary line divides any lot, the uses

and regulations pertinent to the Aquifer Protection Zone shall be applied to the development of such lot provided that the subject lot contains sufficient square footage in the Aquifer Protection Zone to allow development and *provided* further that all structures and waste disposal systems are located within that portion of the lot lying in the Aquifer Protection Zone.

- B. Aquifer Protection Zone Boundary Line. Where the Aquifer Protection Zone boundary line divides a lot in an underlying Residence A District, *said* lot containing *a minimum of* thirty thousand (30,000) square feet but *not the required* sixty thousand (60,000) square feet, the requirements of *this* Bylaw applicable to the less restrictive district shall apply provided that any underground waste disposal system shall be located on that portion of the lot in the less restrictive district.
- C. Non Residential District/Aquifer Protection Zone Boundary Line. Where the aquifer protection zone boundary line divides a lot in any *Non-Residential* District, the uses and regulations pertinent to the less restrictive district may be applied to the development of such lot provided that the subject lot contains sufficient square footage in the less restrictive district *as to* ordinarily allow development and further provided that all structures and waste disposal systems are located in that portion of the lot *which lies* in the less restrictive district.
- D. Appeals of Water Resource District Boundary Lines. In the event that an owner of land presently located in the Water Resource Protection District desires to appeal the determination of a zone or district boundary line, an application shall be filed with the *Planning Board* accompanied by sufficient data, in *twelve* (12) copies, to prove to the satisfaction of the *Planning Board* that ground water from the land does not reach the Town of Hanover wells. The *Planning Board* shall transmit copies of the data to the Board of Public Works and the Board of Health, each of which shall report to the *Planning Board* on the accuracy of the data provided by the applicant within thirty-five (35) days of receipt of the reports. The *Planning Board* shall make no independent decision on the application until such reports are received or until the expiration of the thirty-five (35) day period following transmittal, whichever occurs first. *If* the *Planning Board* determines that the data provided is accurate, it may grant the owner/applicant an exemption in whole or in part from the requirements of this Section, and *it* shall propose a revision of the Water Resource Protection District to the next

appropriate Town Meeting. No exemption shall be granted until a public hearing is held as required by Section 6.820 of this Bylaw.

6.900 - General Provisions:

- 6.910 Religious and Educational Institutions. In all *zoning* districts, nothing in this Bylaw shall prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth or for any of its agencies, subdivisions or bodies politic, or by a religious sect or denomination, or by a nonprofit educational corporation, except that any such use shall be subject to regulations concerning the dimensions and height of structures and the determining of yard sizes, frontage, lot areas, setbacks, open space, parking and building coverage requirements. *A Special Permit and Site Plan Approval* from the Planning Board, acting as the Special Permit Granting Authority in accordance with Section 10 of this By-Law., shall be *required prior to commencement* of such uses.
- 6.920 Municipal Water Supply. In all *zoning* districts, nothing in this Bylaw shall prohibit, regulate or restrict the use of land or structures for municipal water supply uses, except that any such use shall be subject to regulations concerning the dimensions and height of structures and the determining of yard sizes, frontage, lot areas, setbacks, open space, parking and building coverage requirements. *A Special Permit and Site Plan Approval* from the Planning Board, acting as the Special Permit Granting Authority in accordance with Section 10 of this By-Law, shall be *required prior to commencement* of such uses.
- 6.930 Appeals. Appeal from any decision of the *Permit Granting Authority* or of a Special Permit Granting Authority may be taken in accordance with the provisions of Section 17 of Chapter 40A of the Massachusetts General Laws.
- 6.940 Scientific Research. In all *zoning* districts, activities accessory to uses allowed as a matter of right, which are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities allowed as a matter of right, may be permitted upon approval of the *Zoning Board of Appeals, acting as the Permit Granting Authority*, as provided in Section 13. *Activities conducted* in connection with scientific research, biomedical research, scientific product development, and other related activities may be permitted in the Limited Industrial District *upon application for*

and receipt of a Special Permit from the Board of Appeals, acting as the Permit Granting Authority, as provided in Section 13.

- 6.950 Buffers. Whenever a structure for a *non-residential* use is built on a lot which abuts a Residence A District, such structure and any related use of such lot shall be adequately buffered or screened from the Residence A District lot by trees, or shrubs in the event that there are no existing trees, so that the character and quiet enjoyment of the Residence A District would not be substantially changed. (See Section 8.)
- 6.960 Housing for the Elderly and for Handicapped Persons. The use of land for Housing for the Elderly and *for* Handicapped persons in any of the aforementioned Districts by the Hanover Housing Authority or by the Hanover Legion Elderly Housing Corporation or by the Cushing Residence, Inc. shall be exempt from the provisions of this Zoning By-Law, except *for* provisions of Section 6.800, Water Resource Protection District, and Site Plan Approval by the Hanover Planning Board, *acting as the Special Permit Granting Authority*, under the provisions of Section 10 and the present restrictions as set forth in Section 7.100, provided such exemption is authorized by a two-thirds (2/3) majority vote of the Town at any Annual or Special Town Meeting.
- 6.970 Access Drives. In any *non-residential zoning* district, access drives shall be *a minimum of* twenty feet (20) in width and *a minimum of one hundred and twenty* (120) feet center to center apart, and there shall be only one *such* access if the frontage is *two hundred* (200) feet or less. If the frontage is greater *than two hundred* (200) feet, additional accesses may be allowed in the ratio of one (1) such access for each additional two hundred (200) feet, or portion thereof, of frontage.
- 6.980 Wetlands Setbacks. *The following provisions pertain to required setbacks in wetlands areas:*
- A. In addition to setbacks established in Section 7 of this By-Law, construction including, but not limited to, structures, buildings, parking lots, swimming pools, storage tanks, driveways internal to parking lots and around buildings and stormwater facilities such as, but not limited to, detention/retention basins, leaching structures, pipes, swales, and riprapped pads shall be set back a minimum of thirty-five (35) feet from wetlands as defined by *Massachusetts General Laws, Chapter 131, Section 40, the Wetlands Protection Act.* Exempted from the foregoing are stairways, decks, fences, piers, docks and bridges.

- B. Any stormwater facility may be exempted from *the above* setback requirement by a Special Permit granted by the Planning Board, *acting as the Special Permit Granting Authority*. The criteria set forth in 310 CMR 10:51-10:60 and Regulations and Standards governing the design and construction of detention basins in the Town of Hanover shall be the criteria for *the granting of a* Special Permit. In addition, reports and recommendations of the Conservation Commission pertaining to wetlands protection shall be deemed conclusive by the Special Permit Granting Authority.

SECTION 7 - DIMENSIONAL REGULATIONS

7.000 - Requirements in All Zoning Districts:

- 7.010 *The following requirements apply to Dimensional Regulations in all zoning districts:*
- A. No structure shall be erected *and no use shall be established* and no site shall be developed except in conformance with the *Dimensional Regulations depicted in Table 7-1 and/or further described or delineated in Section 7, below.*

 - B. In the case of existing uses in *non-residential* districts, or *pre-existing non-conforming uses, structures or other non-conformances* in any zoning district, no expansion or substantial change of use or substantial change in the nature of a use or expansion of a structure shall *be allowed or permitted* until *an application* for Site Plan Approval has been submitted *to the appropriate Site Plan Reviewing Board, and such application has been approved* in accordance with Section 10, and until such use, *structure or expansion* has been brought into conformance with all dimensional regulations of Section 7, *except as may be exempted by the provisions of Section 4 of this By-Law.*

 - C. All *dimensional* regulations of Section 7 shall be contiguous and uninterrupted.

TABLE 7 - 1
DIMENSIONAL REGULATIONS

Zoning District	Minimum¹ Lot Size	Lot² Frontage	Front Setback	Side Setback	Rear Setback	Building Coverage	Lot⁸ Coverage
Residence A	30,000 sq. ft ²	150 ⁴	50	20	40	—	30%
Business	44,000 sq. ft.	150	75 ⁵	15 ⁶	15 ⁶	Sec. 7.600	60%
Commercial	44,000 sq. ft.	200	75 ⁵	15 ⁶	25 ⁶	Sec. 7.600 ⁹	60% ⁹
Planned Shopping Center	44,000 sq. ft.	200	75 ⁵	15 ⁶	25 ⁶	25%	70%
Limited Industrial	44,000 sq. ft.	200	75 ⁵	25 ⁷	50 ⁷	17.5% ⁹	60% ⁹
Industrial	44,000 sq. ft.	200	75 ⁵	25 ⁷	50 ⁷	17.5% ⁹	60% ⁹
Fireworks ¹⁰	44,000 sq. ft.	200	75 ⁵	25 ⁷	50 ⁷	17.5% ⁹	60% ⁹

NOTES: All measurements are in feet unless otherwise specified except for Lot Size which is in square feet.

All dimensions are minimum requirements except for Building Coverage and Lot Coverage which are maximum allowances.

1. No portion of a lot which lies in a wetland or in a Well Protection Zone shall be utilized to meet Minimum Lot Size requirements for any zoning district.
2. A Minimum Lot Size of sixty thousand (60,000) square feet shall be required in an Aquifer Protection Zone in accordance with Section 6.860B.4 of this By-Law.
3. In all zoning districts, corner lots shall possess the minimum required Frontage along both intersecting ways.
4. In the Residence A District, a lot may have a minimum Frontage of eighty (80) feet provided that the entire frontage of the lot lies along the turning radius of a cul-de-sac and provided that the lot complies with the provisions of Section 7.330 of this By-Law.
5. Front Setback may be fifty (50) feet if no more than five (5) parking spaces are provided in the front yard.
6. A fifty (50) foot buffer shall be added if abutting the Residence A District.
7. A one hundred (100) foot buffer shall be added if abutting the Residence A District.
8. Within an Aquifer Protection Zone, no lot shall have Lot Coverage which exceeds fifty percent (50%) of the total lot area.
9. Lots which contain a functioning railroad freight siding may exceed the Building Coverage and Lot Coverage requirements upon the grant of a Special Permit by the Zoning Board of Appeals in accordance with the provisions of Section 7.540E. of this By-Law.
10. Dimensional Regulations in the Fireworks District may be relaxed upon the grant of a Special Permit by the Planning Board in accordance with the provisions of Sections 6.620 and 6.630 of this By-Law.

7.100 - Height Regulations:

- 7.110 The height of any building or structure shall not exceed thirty-five (35) feet at any face measured from the average grade for each such face, and shall not exceed three (3) stories above the average grade at the foundation lines.
- 7.120 Limitations of height shall not apply to spires, domes, steeples, radio towers, chimneys, broadcasting and television antennae, bulkheads, cooling towers, ventilators and other appurtenances usually carried above the roof, or to farm buildings, churches and municipal or institutional buildings, provided that *for uses which* require a Special Permit *and/or Site Plan Approval*, such has been *so granted in accordance with the provisions of this By-Law*.
- 7.130 Heights *defined* in Sections 7.110 and 7.120 shall not exceed the limits *defined* by Chapter 756 of the *Massachusetts* General Laws of 1960 and any more restrictive amendments thereto.

7.200 - Lot Size and Lot Area:

- 7.210 *In all zoning districts, minimum lot size shall be as depicted in Table 7-1.*
- 7.220 In all zoning districts, no portion of a lot, which is in a wetland or in a Well Protection Zone, shall be used to meet the *dimensional* regulations of Section 7 *except in accordance with Section 8.110 of this By-Law*.

7.300 - Lot Frontages:

- 7.310 *In all zoning districts, minimum lot size shall be as depicted in Table 7-1.*
- 7.320 All frontage measurements are in feet and shall be measured at the way line and shall be contiguous and uninterrupted.
- 7.330 In the Residence A District, *if* a lot conforms to all *dimensional* regulations *except for frontage* and fronts entirely on a turning radius of approved design, *said lot* may have a minimum frontage of *eighty* (80) feet *provided that the minimum required* frontage for the district can be measured by a straight line drawn parallel to a tangent at the way line, *said tangent being drawn through a point at the center of the lot's frongage*, and *provided that no* structure is erected closer to the way

than said *parallel line*, nor closer than the minimum front *setback* shown in *Table 7-1*.

- 7.340 *If a lot has frontage on two (2) ways, both frontages shall meet the requirements of minimum lot frontage and minimum front setbacks appropriate for the zoning district in which the lot lies. In such a case, those lot lines considered not to be front lot lines shall be deemed to be side lot lines. A lot shall be considered to have frontage on two (2) ways if the frontage of the lot includes any point along the rounded corner between the two (2) intersecting ways. In such a case, frontage shall be measured from the point of intersection of the extended waylines and along each wayline to the point where a side lot line intersects that wayline.*
- 7.350 *No new side lot line shall be drawn so as to utilize the intersection of two (2) ways as the terminus of a lot boundary line. Any point along the rounded corner between two intersecting ways shall be considered as a portion of the intersection of the two ways.*
- 7.360 *That portion of a lot used as qualifying lot frontage shall be the actual access to that lot for vehicles, water service and other normal uses of lot frontage.*

7.400 - Front, Side and Rear Setbacks:

- 7.410 *In all zoning districts, minimum front, side and rear setbacks shall be as depicted in Table 7-1.*
- 7.420 *For purposes of determining the necessity of buffer areas, a lot shall be considered to abut the Residence A District if it abuts at the lot line itself either partially or for the entire length, if a portion of the Residence A District lies within the lot itself, or if a lot is in existence or is created which is not a normal building lot and abuts essentially for the purpose of derogating from the intent of this By-Law. (See Section 8).*
- 7.430 *When a lot in the Business, Commercial or Planned Shopping Center Districts abuts a lot in the Residence A District along either a side or a rear lot line, there shall be a buffer strip of a minimum of fifty (50) feet in width along said lot line. (See Table 7-1.)*
- 7.440 *When a lot in the Limited Industrial, Industrial, or Fireworks Districts abuts a lot in the Residence A District along either a side or a rear lot line, there shall be a buffer strip of a minimum of one hundred (100) feet in width along said lot line. (See Table 7-1.)*

7.500 - Coverage of Land (Building Coverage and Lot Coverage):

- 7.510 *In all zoning districts, maximum building coverage and lot coverage shall be as depicted in Table 7-1.*
- 7.520 Residence A District. Maximum *lot* coverage of land by structures, accessory structures, and paving shall not exceed *thirty percent (30%) of the lot area* except that within the Aquifer Protection Zone, no lot shall include an impervious area in excess of fifteen percent (15%) of the lot area *nor* retain less than forty percent (40%) *of lot area* in an undeveloped state, without redirecting *surface water/stormwater* runoff to recharge facilities and *provided that* a Special Permit *is obtained in an Aquifer Protection Zone in accordance with Section 6.860B. of this By-Law.*
- 7.530 Planned Shopping Center District.
- A. Maximum *building* coverage of land by all structures shall not exceed *twenty five percent (25%)* of the lot area, and the *maximum* lot coverage, including structures, parking, service and storage areas shall not exceed *seventy percent (70%)* of the lot area. A decked or covered parking area shall not be included for purposes of calculating building coverage under this Section but shall be included for purposes of calculating lot coverage. All decked or covered parking areas shall be located *a minimum of six hundred (600) feet* from the *way* line of Washington Street and *three hundred (300) feet* from the *way* line of Mill Street.
- B. Land located in abutting towns may be used to satisfy any of the requirements of this Section, provided that said land is contiguous to, and in common ownership with, land which is in Hanover and lies within said district.
- 7.540 Business, Commercial, Limited Industrial, *Industrial and Fireworks* Districts.
- A. When the use is for a bank, restaurant, service station or any operation which generates similar high traffic counts, *maximum building* coverage shall not exceed *twelve percent (12%)* of the lot area. In computing such area, the *gross floor area* as defined

in Section 2 shall be used unless a story above or below ground level is greater in area, in which case the greatest vertical projection to ground level of any story or other portion of a structure shall be used. The *maximum* lot coverage, including structures, parking and service area, storage areas, disposal areas, etc. shall not exceed *sixty percent (60%)* of the lot area. These coverage requirements shall also apply to any use wherein products are displayed or sold outside of a structure in whole or in part.

- B. When the use is for general retailing of goods within a structure, the maximum *building* coverage shall *not exceed fifteen percent (15%) of the lot area* and *the maximum lot coverage shall not exceed sixty percent (60%) of the lot area*.
- C. When the use is for light industrial, general office, warehousing and similar low traffic uses, the maximum *building* coverage shall not exceed *seventeen and one-half percent (17.5%) of the lot area* and *the maximum lot coverage shall not exceed sixty percent (60%) of the lot area*.
- D. For uses which are a combination of the above, the *building and lot* coverages shall be calculated on a pro-rata basis.
- E. When a lot lies in the Commercial, Limited Industrial, *Industrial, or Fireworks* District, *and said lot* contains a functioning railroad freight siding, the Zoning Board of Appeals, *acting as the Permit Granting Authority*, may, by Special Permit, (1) waive setback requirements along the railroad siding to permit construction of loading and unloading docks; and (2) allow appropriate increases in *building and lot* coverage of land to facilitate rail freight usage. Such approval, which shall in no case exceed *thirty-five percent (35%)* for building coverage *nor seventy percent (70%)* for lot coverage, shall include appropriate provisions to insure adequate truck and vehicle traffic access to a numbered State or Federal highway without the need to utilize residential *streets or ways*.

7.600 - Special Provisions:

- 7.610 Minimum Floor Area. *In all zoning districts*, a structure containing more than one dwelling unit shall have a floor area of a minimum of *six hundred (600)* square feet for each such *dwelling* unit.
- 7.620 Eaves, sills, steps, cornices, belt cornices, fences or walls, and similar

features may project into front, *side or rear setbacks* provided that:

- A. On a corner lot, in order to provide unobstructed visibility at intersections, no sign, fence, wall, tree, hedge or other vegetation, and no building or other structure shall be erected, placed, *constructed* or maintained at a height of more than three (3) feet above the established *paved* grades of the *abutting ways* within that area which is *located within twenty five (25) feet* of the *point of* intersection of the *waylines* of the *two (2) abutting ways*.
- B. No yard, lot area, *setback, buffer* or other open space required for a building *or structure* by this By-Law, shall, during the existence of such building *or structure*, be occupied by or counted as open space for another such building *or structure*. No lot area shall be so reduced or diminished such that the yards, *setbacks, buffers* or other open space shall be smaller than that required by this By-Law.

- 7.630 Wherever a buffer area is required, the measurements for side and rear setbacks shall be taken from the innermost buffer line and not from the lot lines.
- 7.640 Within the Business District or the Commercial District, canopies or porticos may be placed *within the minimum required setback distances* provided that *an application for a Special Permit and for Site Plan Review has been submitted to, and granted by, the Planning Board, acting as the Special Permit Granting Authority, in accordance with the provisions* of Section 10 of this By-Law.
- 7.650 *Minimum Size of Parking Spaces. In the Planned Shopping District, parking spaces shall be no smaller than nine (9) feet in width by twenty (20) feet in length in accordance with Section 9.020. In all other zoning districts, parking spaces shall be no smaller than ten (10) feet in width by twenty (20) feet in length in accordance with Section 9.110E. except as may be exempted by Section 9.040A.*

SECTION 8 - LANDSCAPING AND BUFFERS

8.000 - Purpose:

The *purpose* of a buffer area is to leave land in, or restore land to, its natural state, to preserve or restore vegetation, to maintain or restore natural land contours, and to maintain or restore visual screening. Further, the intent is to protect and preserve the value of property in the town; to preserve and protect the beauty and amenities of the town; to conserve natural conditions; to secure safety from congestion, traffic and blight; and to promote the general health, welfare, safety and convenience of the inhabitants of the town. *Said buffer areas are also intended to be used to minimize conflicts between adjacent land uses.*

8.100 - Buffer Area:

- 8.110 When a lot in a *non-residential* district abuts a lot in the Residence A District, a buffer area shall be incorporated as designated in Section 7.400 and Table 7-1 of Section 7. These buffer areas shall be in conformity with the requirements of a buffer area delineated in this Section. The entire buffer shall be within the lot in question, but may be entirely or partly within the Residence A District if such district is included within the lot confines. Wetlands may be included within the buffer area if they are not disturbed except as may be *permitted* by an Order of *Conditions obtained from* the Conservation Commission.
- 8.120 The buffer within the Residence A District *portion* of the lot may be larger than required. Any portion of a buffer which is within a residential district shall immediately abut the zone line between the residential district and the *non-residential* district *and extend into the non-residential for the minimum required width.*
- 8.130 Lots in *non-residential* districts which do not abut *lots in the* Residence A District shall have minimum buffer areas as follows:
- A. At the front *way* line, the buffer area shall be *a minimum of twenty (20) feet in depth.*
 - B. At side and rear lines, the buffer area shall be *a minimum of fifteen (15) feet in width or depth.*

8.200 - Plantings for Buffer Areas:

- 8.210 Within buffer areas, screening shall be retained or provided *through proper landscaping*.
- 8.220 Landscape Plan: A landscape plan shall be prepared by a Registered Landscape Architect showing locations for and identifying all plant material to be included in the Site Plan, whether newly planted or retained as existing vegetation. The plan shall also include a planting schedule indicating number of plants, botanical and common names for all plant material, and details specifying proper excavation, soil preparation, planting methods, and methods for protecting plant materials during and after construction.
- 8.230 The arrangement of plant materials shall consider the relationship of plants in size, form, texture and color. The configuration and combinations of plant materials shall be in accordance with sound horticultural and landscape architectural practices.
- 8.240 All plant materials shall be selected for their disease resistance, hardiness, tolerance of roadside location, and minimal maintenance. Indigenous plants and those requiring low levels of water are encouraged.
- 8.250 Plantings for all buffer areas shall include the following categories of plant material. In all cases, a variety of species shall be selected, with an approximate mix of *fifty percent (50%)* evergreen and *fifty percent (50%)* deciduous species.
- A. Upper Story Plantings: Trees shall be planted or retained in the buffers *so that at maturity they* form a foliage canopy above the other buffer plantings. *Minimum caliper measurements shall mean diameter at breast height (dbh), which shall be five (5) feet from the ground level.*
- B. Lower Story Plantings: Shrubbery, including flowering, deciduous and evergreen plantings, shall be planted or retained to achieve appropriately dense screening below the foliage canopy of the upper story plantings for each buffer type.

- C. Ground Covers: Ground covers shall be planted to fill the area of the buffer not covered by upper and lower plantings. Ground covers may include grasses, perennial flowering plants and bulbs, and spreading evergreen and deciduous ground covers. Mulches such as chipped bark or small stones may be used directly under shrubs and trees, but may not be used as a ground cover over broad areas of the buffer.

8.260 Front Buffer: Plantings for the front buffer shall include:

- A. Upper Story Plantings: Trees shall be retained or planted in a staggered row at a maximum distance of *twenty* (20) feet on center, and there shall be a *minimum* of one (1) street tree per *twenty* (20) lineal feet of frontage. Such trees shall have a minimum three and one-half (3½) inch caliper at *diameter breast height (dbh)* when planted.

The Site Plan Reviewing Board may allow an applicant to cluster trees, rather than planting them in a row across the full length of the buffer. Trees may be grouped, if in the opinion of the *Reviewing Board*, such grouping improves the way in which the buffer plantings relate to the overall site plan or improves safety through increased sight distances. At no time, however, shall trees be planted further than *forty* (40) feet apart.

- B. Lower Story Plantings: *There shall be* a minimum of one (1) shrub for each *five* (5) lineal feet of frontage. Shrubs shall be a minimum size of thirty (30) inches above grade when planted. Lower story plantings shall be selected and sited to assure safe sight distances when entering and leaving the site. Groupings of shrubs rather than rows are encouraged.
- C. Ground Covers: A mix of lawn areas, flowering plants, and spreading ground covers is encouraged for the front buffer.
- D. The inclusion of earthen berms, low fences and walls in the front buffer may be acceptable if their inclusion contributes to the overall aesthetics of the site plan.
- E. When a proposed plan for widening a public *way* or *state* highway has been made public, the *twenty* (20) foot front buffer shall be measured from the proposed taking line, if any.

8.270 Side Buffers: Plantings for side buffers shall include:

- A. Upper Story Plantings: Trees shall be planted in a staggered row at a minimum spacing of *thirty* (30) feet on center for the length of the buffer and shall have a minimum caliper at *dbh* of *two and one-half* (2½) inches when planted. Species shall be chosen which reach a mature height of a *minimum of thirty* (30) feet.
- B. Lower Story Plantings: Shrubs shall be planted or retained at a spacing to provide a continuous screen a minimum of *six* (6) feet in height at maturity. Shrubs shall be a minimum of *thirty-six* (36) inches when planted.
- C. Ground Covers: Ground covers shall be planted in side buffers as *specified* in Section 8.250, above.
- D. Fences or walls may be used in conjunction with side buffer plantings, but not in *lieu* of them.

8.280 Rear Buffer: Plantings *for the rear buffer* shall include:

- A. Upper Story Plantings: Trees shall be planted or retained in a staggered row at a minimum distance of *thirty* (30) feet on center for the length of the buffer and shall have a minimum caliper at *dbh* of *three and one-half* (3½) inches. The Site Plan Reviewing Board may require more landscaping in the case of a site abutting residentially used or residentially zoned land as may be appropriate to provide screening and protection.
- B. Lower Story Plantings: If the rear buffer is directly adjacent to *a lot in the Residence A District*, lower story plantings shall meet requirements for lower story plantings in Section 8.270 B. If the rear buffer is directly adjacent to land *which is located in a Non-Residential District*, lower story plantings shall meet requirements for lower story plantings in Section 8.260 B.
- C. Ground Covers: *Ground covers shall be planted in rear buffers* as specified in Section 8.250, above.
- D. *Fences or walls* may be used in conjunction with *rear buffer* plantings, but not in *lieu* of them.

- 8.290 Fencing: Fencing may be *utilized* if it is a supplement to and not a replacement for vegetative screening and is erected either at the lot line or at the innermost buffer area line, but not within the buffer area.

8.300 - Existing Vegetation:

- 8.310 When natural vegetative cover and natural contours can be preserved within the buffers, the Site Plan Reviewing Board may waive, in whole or in part, the strict enforcement of screening requirements, *provided that* existing natural screening substantially conforms to the intent of this By-Law to the satisfaction of the Reviewing Board.
- 8.320 All plant materials required by this By-Law, including retained vegetation, shall be maintained in a healthful condition and dead materials *shall be* replaced at the earliest appropriate season.

8.400 - Driveways Through Side Buffers:

- 8.410 Driveways through side buffers may be *permitted* by Special Permit from the Planning Board, *acting as the Special Permit Granting Authority*. The purpose of said driveway shall be to provide access between *adjacent* businesses or lots and to minimize traffic on adjacent *ways*. The driveway shall not be wider than twenty-six (26) feet. The criteria for reviewing said Special Permit application shall be as follows:
- A. Impact on convenience and safety of vehicular and pedestrian traffic within adjacent properties and decrease of traffic on adjacent *ways*.
 - B. Impact on landscaping and buffering. The benefits to vehicular and pedestrian safety *shall* be shown to outweigh the detriment to landscaping.
 - C. Side buffer driveways shall not be closer than *one hundred and fifty* (150) feet apart and shall not be closer than thirty (30) feet from the front property line.
 - D. *The applicant shall* demonstrate that the number of curb cuts *on the abutting ways* shall be decreased by virtue of driveways through the

side buffer or that traffic on abutting ways shall be decreased by the proposed driveways.

- E. *Where driveways are permitted through side buffers, the landscaping requirements shall be increased by twenty percent (20%) above those listed in Section 8.270, above.*

8.500 - Parking Area Plantings:

- 8.510 *Landscaping and planting requirements for parking areas shall be in accordance with Section 9.200 of this By-Law.*
- 8.520 *Whenever off-street parking is required in a non-residential zoning district in accordance with Section 9, there shall be a buffer area of a minimum of twenty (20) feet in width provided between the way line and the balance of the lot except at the access point. Said buffer area shall be seeded and landscaped in accordance with Section 9 of this By-Law.*

SECTION 9 - PARKING AND LOADING REQUIREMENTS

9.000 - Off-Street Parking and Loading Areas:

- 9.010 Requirements for off-street parking and loading areas *in all Zoning Districts* shall be as specified in Table 9-1 and this Section. These requirements shall be met *for all* new construction or when added demand is *created* by expansions, additions, or changes in *existing* uses. Adherence to these and all other requirements of this By-Law shall be shown on a Site Plan submitted to and approved by *the Planning Board, acting as* the Special Permit Granting Authority. The specifications below shall be construed as minimum requirements. The *Board* may impose greater requirements relative to a specific site if in the opinion of *the Board such* may be necessary due to lot configuration, traffic *issues*, topography, public safety and similar criteria.

TABLE 9 - 1

MINIMUM PARKING REQUIREMENTS

<u>Type of Use</u>	<u>Minimum Required ^{(1) (2)} Parking Spaces</u>
Single family residential dwelling	One space. (Site Plan not required by the Planning Board.)
Dwellings	One parking space for each dwelling unit and sufficient off-street parking for visitors and employees.
Light Industry and warehouse	One space for per employee, but no fewer than one space per five hundred sq. ft. of gross floor area (GFA), plus adequate loading and service areas plus adequate visitor or customer parking.
Hotel/Motel	1.25 spaces per each unit, plus employee parking, loading and service areas. If restaurants, places of public assembly, or other uses are included within the same site, additional parking to meet such needs shall be required.
Nursing Home	One space per 2.5 beds, plus adequate service, employee parking and loading areas.
Business or Professional Office	One space per two hundred sq. ft. of GFA, but not fewer than five per separate enterprise, plus adequate loading, service and employee parking commensurate with the use.
Banks, retail sales and/or service and other high traffic businesses	One space per one hundred fifty sq. ft. of GFA, but not fewer than five per separate enterprise, plus adequate loading, service and employee parking commensurate with the use.
Convenience stores, food stores and similar uses	Shall meet the requirements for "Banks, retail sales and/or service and other high traffic businesses" but shall further demonstrate to the Special Permit Granting Authority that adequate means are provided for entrances, egresses, parking, and walkways to assure safe and convenient vehicle and pedestrian traffic flow.
Restaurant	One space per three persons based on capacity (seats, stools, standing room, etc.) plus additional parking for loading, service and employees
Restaurants, fast food/take-out	Minimum of five spaces, although more may be required based on projected customer volume, plus additional parking for loading, service and employees.
Repair Garage or other uses providing maintenance services	Two spaces for every service bay, and one space per three hundred sq.ft. of GFA plus adequate loading, service and employee parking areas. More may be required based on projected customer volume.
All other uses	One space per one hundred fifty sq. ft. of GFA, plus adequate loading, service and employee parking areas. Planning Board may allow other appropriate level of parking, but not less than one space per two hundred sq. ft. of GFA (See Section 9.300).

(1) The Reviewing Board may impose greater requirements relative to a specific site if, in the opinion of the Board, such may be necessary due to lot configuration, traffic issues, topography, public safety and similar criteria.

(2) A pro-rata formula may be used for mixed uses in accordance with Section 9.070, below.

- 9.020 Planned Shopping Center District: Notwithstanding the provision of any other part of this By-Law to the contrary, where the gross floor area of retail uses on a lot in the Planned Shopping Center District exceeds *two hundred thousand* (200,000) square feet, there shall be provided one (1) parking space per *two hundred and twenty-five* (225) square feet of gross floor area. Each parking space shall be a minimum of *nine* (9) feet in width by *twenty* (20) feet in length unless it is shown to the satisfaction of the Special Permit Granting Authority that *smaller spaces* are appropriate and adequate in specific cases. There shall be a *minimum of two hundred and eighty* (280) square feet of net standing and maneuvering area for each such space, exclusive of loading and service areas. Areas contained within a decked or covered parking garage shall not be considered gross floor area for purposes of this Section.
- 9.030 Businesses offering drive-in, take-out and similar services: *Such establishments shall* include, but not be limited to, restaurants, photo processing, banks and similar enterprises providing drive-in windows and attached or free-standing units *such as* automated teller machines (ATM). In addition to *providing the required* parking indicated in *Table 9-1 and adequate* service, loading and employee parking areas, *such* uses shall *provide* adequate ingress and egress drives and *queuing* areas for vehicles approaching drive-in windows. When a drive-in window is attached to a *principal* structure, a minimum drive of *fifteen* (15) feet in width shall be provided for each window to *provide for* safe ingress and egress. Such drive shall extend a *minimum of fifty* (50) feet on both the approach and egress from the window *and allow for* a minimum of *five* (5) vehicles per drive to await service without impacting on traffic flow within the lot, or *on driveways or* any public way. *The site* shall be designed so that traffic flow beyond the window *shall not* conflict with *queues at the window or* with traffic flow within the lot, or on driveways or any public way. When a *drive-in window is provided* in a free-standing structure, all of the *above* requirements shall be met and, in addition, the *ingress and egress* drives shall be a minimum of *twenty-five* (25) feet in width and a *minimum of ten* (10) parking *spaces* shall be provided for employee and service use *at such structure*.
- 9.040 Automotive uses: *Such uses shall* include, but not be limited to *gas stations, service stations, repair shops or garages and automobile dealerships*. The design of entrances, drives, and egresses shall *provide for* adequate vehicle holding patterns commensurate with the use. All

automotive uses shall include adequate *area for* parking for employees and visitors, and for loading and service areas.

A. Uses which include the sale of new or used vehicles shall include adequate areas for delivery and unloading of vehicles within the site. *Vehicles shall not* be parked in rows greater than two (2) cars wide and access aisles shall provide a minimum of *twenty (20)* feet between rows of vehicles for the purpose of fire and other emergency equipment access. Areas devoted to the display of vehicles for sale shall require a minimum of *two hundred and fifty (250)* square feet of space *for each vehicle so displayed*. Spaces for such display vehicles shall be clearly marked and individually numbered on the paving *and on the Site Plan*. The applicant *shall clearly* demonstrate that adequate spaces are provided for employee, visitor and customer parking *pursuant to Table 9-1*. A minimum area equal to *fifteen percent (15%)* of the total area devoted to vehicles or display, including unloading areas and access aisles, shall be required for these purposes.

9.050 Membership clubs: These uses shall meet the basic requirements for the types of uses intended (i.e. place of public assembly, restaurant, etc.) and, *in addition*, the applicant *shall clearly* demonstrate to the satisfaction of the Special Permit Granting Authority that adequate entrances, egresses, parking, walkways and the like are provided on the site for all public and private functions. A membership club *which is allowed or permitted in the Residence A District* shall meet all *of the parking and loading* requirements which would be imposed in a Non-Residential District and, further, *the applicant shall clearly* demonstrate to the satisfaction of the *Special Permit Granting Authority* that the required buffer areas are sufficient to protect adjoining properties and that residential *ways or streets* will not be negatively impacted by traffic or parking uses. The applicant shall *also clearly* demonstrate that additional buffer requirements are not necessary in *the residential area*.

9.060 No more than five (5) parking spaces shall be located within *the* required front *setback*. It is the intent of this requirement that substantially all parking areas shall be located to the sides and rear of a building or buildings, and that the front yard *shall be* used primarily for walkways, landscaping driveways, and the required buffer. *For sites upon which all parking areas are located to the sides and/or rear of buildings*, the minimum front *setback may be reduced to fifty (50)* feet.

- 9.070 A pro-rata formula may be used for mixed uses except that incidental storage, warehousing, utility areas, etc. shall not be included in such formula to reduce parking requirements unless that use exceeds *twenty-five percent*(25%) of the *principal* use.

9.100 - Design and Location of Off-Street Parking and Loading Areas:

- 9.110 All non-residential development shall meet the requirements specified below.
- A. Location: *All* required parking shall be *located* either on the same *lot* as the activity it serves, or on a separate *lot* if said separate lot is located within *three hundred* (300) feet of the major entrance to the *principal structure*, *provided that said lot is not separated from the principal lot* by a state-numbered highway and *provided that said lot lies* in a zoning district which allows or permits the use being conducted on the *principal lot*.
 - B. Backing: All parking areas shall be designed and located so that their use does not involve vehicles backing onto a public way. This shall not apply to residential uses.
 - C. Except in the case of parking spaces provided for dwellings in *the* Residence A District, all off-street parking, loading and service areas *and all proposed* paving or other surfacing shall be shown on a Site Plan submitted to *and approved by the Planning Board, acting as* the Special Permit Granting Authority. Areas which are not *located* within the Water Resource Protection District shall utilize impermeable paving. *Within the Water Resource Protection District*, such areas shall be designed and constructed *so as* to provide protection of water resources to the satisfaction of the *Planning Board*.
 - D. For each required off-street parking space, there shall be a minimum of *three hundred* (300) square feet of net standing and maneuvering area per space exclusive of loading and service areas.
 - E. Each parking space shall be a minimum of ten (*10*) feet *in* width by *twenty* (20) feet *in* length and access aisles shall be a *minimum of* twenty feet (*20*) *in* width unless it is shown to the satisfaction of the Special Permit Granting Authority that some lesser measurements are appropriate and adequate in specific

cases. Such lesser measurements shall not waive the necessity of meeting the requirements of Section 9.110D., above.

- F. *All* illumination of parking, loading and service areas shall be arranged so as not to *create glare* on abutting properties or on public ways.

9.200 - Parking Area Plantings:

- 9.210 Parking *areas* containing *ten* (10) or more parking spaces shall have a *minimum of one* (1) tree per eight (8) (or fractions of eight) parking spaces and such trees *shall* be located within the paved parking area. Such trees shall *have a minimum three* (3) inch *caliper at diameter breast height (dbh) when planted and there shall be* a minimum of sixty (60) square feet of seeded or landscaped permeable surface area per tree. When parking areas contain *twenty-five* (25) or more spaces, *a minimum of five percent* (5%) of the parking area shall be maintained with landscaping, including trees as above, in plots of *a minimum of eight* (8) feet in width. Trees and landscaped plots shall be designed and located so as to provide visual relief and screening from the sun and wind within the parking area, and to assure safe patterns of internal circulation. Any landscaped areas may be included within the calculations for required open space areas.

9.300 - Reduction in Parking Requirements:

- 9.310 Lesser parking requirements than those specified in this Section may be *permitted* by Special Permit at the discretion of the Planning Board, *acting as the Special Permit Granting Authority*, subject to the following criteria:
 - A. *The number of required parking spaces* may be reduced by up to one-third of the requirements specified in this Section.
 - B. The applicant *shall* demonstrate to *the satisfaction of* the Planning Board, *acting as the Special Permit Granting Authority*, that lower requirements are appropriate as demonstrated by data from the latest edition of the Institute for Traffic Engineers (ITE) Trip Manual or from actual traffic counts for similar *uses*.
 - C. To allow a reduction in parking requirements, the Planning Board *shall* make a written finding that the site has *adequate* capacity for vehicles at peak hour and that the reduction in

parking spaces is not substantially more detrimental to public safety than adhering to *the requirements of this Section*. Under no circumstances *shall* a reduction be *permitted* that would so decrease capacity that vehicles would *be required* to park on another lot.

- D. A reduction in parking spaces greater than *twenty percent (20%)* of the requirements specified in this Section shall require an increase in landscape plantings of *ten percent (10%)* above *that which* is required in Section 8 in all buffers and *other* planting categories.

SECTION 10 - SITE PLAN APPROVAL

10.000 - Purpose and Applicability:

- 10.010 Site Plan Approval: For the purposes of assuring proper drainage, safe access, administering provisions of this By-Law in regard to parking and loading areas, signs, *buffers*, screening and landscaping, and to assure adequate consideration for abutting land owners, and to further provide for the review of plans of certain structures or developments which by virtue of their design, type of construction, location, and/or potential use may have a significant impact on the environment, water table, traffic patterns or utilities of the town, a Site Plan shall be submitted:
- A. To the *Zoning* Board of Appeals for all uses for which the approval of the *Zoning* Board of Appeals is required by the provisions of this By-Law.
 - B. To the Planning Board for all other uses except for dwellings *allowed* in the Residence A District.
- 10.020 *When Required: Site Plan Approval shall be required for all of the following:*
- A. *An increase in the extent of the pre-existing non-conforming use of a structure or of land in accordance with Section 4.110A.2.*
 - B. *An expansion or a change of use of a pre-existing non-conforming structure in accordance with Section 4.220.*
 - C. *The expansion of a structure or of a use on a pre-existing non-conforming lot in accordance with Section 4.320.*
 - D. *Automotive uses in accordance with Section 6.230A.*
 - E. *Adult Entertainment uses in accordance with Section 6.230B*
 - F. *All uses in the Water Resource Protection District in accordance with Section 6.820.*
 - G. *Religious and Educational uses in accordance with Section 6.910.*
 - H. *Municipal Water Supply uses in accordance with Section 6.920.*

- I. *The use of land for Housing for the Elderly and for Handicapped Persons in accordance with Section 6.960.*
- J. *The expansion or change of use or expansion of a structure for all existing uses in non-residential zoning districts and for all pre-existing non-conforming uses, structures or other non-conformances in all zoning districts in accordance with Section 7.010B.*
- K. *The placement of canopies or porticos within required setbacks in accordance with Section 7.640.*
- L. *Additions to off-street parking and loading areas when necessitated by new construction or by expansions, additions or changes in existing uses in accordance with Section 9.010.*

10.030 Other Applications: In all non-residential districts, any new structure exceeding *eight thousand* (8,000) square feet of *gross* floor area or any expansion *or alteration* of an existing structure which exceeds *five thousand* (5,000) square feet of *gross* floor area, shall require Site Plan Approval in addition to a Special Permit. Any change of use or alteration that results in impacts exceeding those found in Section 11.120 shall require Site Plan Approval and a Special Permit. The Planning Board shall have the discretion to require Site Plan Approval for any project that it deems will generate significant impacts, including requiring the impact assessments described in Section 10.120. *Some projects may qualify for Limited Site Plan Review pursuant to Section 10.500.*

10.040 If a Special Permit or Site Plan Approval presently requires two (2) or more Boards to hold separate or concurrent hearings, then the Special Permit and/or Site Plan Approval shall require the approval of all of those Boards. If no specific Board is presently designated as the reviewing authority for a Special Permit or Site Plan Approval, the *Zoning Board of Appeals*, acting as the Permit Granting Authority, *shall function as said reviewing authority.*

10.100 - Contents:

10.110 Site Plans shall be prepared by a registered professional engineer and *shall* include a landscape plan prepared by a registered landscape architect. Site Plans shall include *all of* the following:

- A. Locus of the proposed development;

- B. *Location, boundaries, and dimensions* of each lot;
- C. Property lines for each lot, *showing directional bearings and distances*, location with reference to identifiable street intersections, land uses, directional arrow, scale, assessors' plan number(s) and lot number(s), and zoning district in which the lot is located;
- D. Use and ownership of all *abutting property*;
- E. Location and use of all structures within two hundred (200) feet of the proposed developments;
- F. Dimensions of property line setbacks to, and dimensions between, each building, structure, or use;
- G. Location of all proposed and existing, as well as adjacent public and private *ways*;
- H. Location of all easements on, over, and adjacent to the site, including the location of all existing and proposed utility lines and fire hydrants;
- I. Existing and proposed topography at two (2) foot contours;
- J. Location and description of all *significant* natural features including but not limited to wetlands and their one-hundred (100) foot buffer zones, rivers, streams, lakes, ponds, areas subject to flooding, existing vegetation and proposed removal of vegetation;
- K. *Delineation of the Water Resource Protection District, Well Protection Zone and Aquifer Protection Zone boundaries and the Flood Plain District*;
- L. Location and description of proposed open space and recreation areas;
- M. Location and description of cultural features such as old trails, agricultural fields, and historic buildings and sites;
- N. Location and description of all existing structures and buildings, *including those to be demolished*, and proposed new structures and buildings *showing ground and final elevation(s)*;

- O. Location and description of parking and loading areas, driveways, walkways, points of ingress and egress, traffic safety devices, and general circulation patterns;
- P. *Location and description* of the proposed wastewater disposal systems, water supplies, stormwater drainage systems, temporary or permanent erosion control structures, utilities, *and any solid and hazardous waste disposal systems*;
- Q. *Proposed* landscaping plans showing *buffer areas*, screening, fencing and plantings, and schedule for landscaping;
- R. Provision for lighting *and illumination* of the site;
- S. *Location, dimensions, height and characteristics of proposed signs*;
- T. Relationship of the proposed development to flood plains, groundwater, *aquifer* recharge areas, water table and municipal water supply improvements, and to the ability of the *municipal* water supply system to fulfill the additional demand generated by said development;
- U. Existing traffic volumes, composition, peak hour levels and capacity of the *abutting ways as well as* an estimate of the traffic volumes, composition, peak hour levels and directional flows of traffic generated by the proposed development.

10.120 In addition, for projects that exceed the thresholds established in Section 10.030, the applicant shall submit a Development Impact Statement *to the appropriate Site Plan Reviewing Board*. The Development Impact Statement shall describe potential impacts of the proposed development, identify all significant positive or adverse impacts, and propose an acceptable program to prevent or mitigate adverse impacts. The Development Impact Statement shall consist of the following four (4) elements:

A. Traffic Impact Assessment:

The purpose *of the Traffic Impact Assessment* is to document existing traffic conditions in the vicinity of the proposed project, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures proposed to mitigate any adverse impacts on traffic *in accordance with the*

following:

1. Existing traffic conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, accident data, and levels of service (LOS) of intersections and streets *and ways* likely to be affected by the proposed development. Such data shall be presented for all streets and ways and intersections adjacent to or within *one thousand* (1,000) feet of the project boundaries and shall be no more than *twelve* (12) months old at the date of application, unless other data are specifically approved by the Planning Board.
2. Projected traffic conditions for design year of occupancy: Statement of design year of occupancy, background traffic growth on an annual average basis, impacts of proposed developments which have already been approved in part or in whole by the Town.
3. Projected impact of proposed development: Projected peak hour and daily traffic generated by the development on *streets* and ways in the vicinity of the development; sight lines at the intersections of the proposed driveways with streets *and ways*; existing and proposed traffic control *devices* in the vicinity of the proposed development; and projected post-development traffic volumes and levels of service of intersections and streets *and ways* likely to be affected by the proposed development.
4. *Proposed mitigation measures: Description of measures for mitigation of any potential adverse impacts identified above.*

B. Environmental Impact Assessment:

The purpose of the Environmental Impact Assessment is to describe the impacts of the proposed development with respect to both on-site and off-site environmental quality in accordance with the following:

1. Identification of potential impacts: Description and evaluation of potential impacts on the quality of air, surface water, and ground water adjacent to or directly affected by the proposed development; on-site or off-site

flooding, erosion, and/or sedimentation resulting from alterations to the project site, including grading changes and increases in impervious area; on-site or off-site hazards from radiological emissions or other hazardous materials; adverse impacts on temperature and wind conditions on the site and *on* adjacent properties; impacts on solar access of adjacent properties; and off-site noise or light *pollution* impacts.

2. Systems capacity: Evaluation of the adequacy of existing or proposed systems and services for water supply and disposal of liquid and solid wastes.
3. Proposed mitigation measures: Description of proposed measures for mitigation of any potential adverse impacts identified above.

C. Fiscal Impact Assessment:

The purpose of the Fiscal Impact Assessment is to evaluate the fiscal and economic impacts of the proposed development on the Town in accordance with the following:

1. Projections of costs arising from increased demand for public services and upon the infrastructure *of the Town*:
2. Projections of benefits from increased tax revenues, employment (construction and permanent), and value of public infrastructure to be provided.
3. Projections of the impacts of the proposed development on the values of abutting properties.
4. Five-year projection of increased Town revenues versus costs resulting from the proposed development.
5. *Proposed mitigation measures: Description of proposed measures for mitigation of any potential adverse impacts identified above.*

D. Community Impact Assessment:

The purpose of the Community Impact Assessment is to evaluate the proposed development with respect to the Town's visual and historic character and development goals in

accordance with the following:

1. Site design and neighborhood impact: Evaluation of the relationship of proposed new structures or alterations to *surrounding* pre-existing *structures* in terms of character and intensity of use (e.g., scale, materials, color, door and window size and location, setbacks, roof and cornice lines, and other major design elements) and the location and configuration of proposed structures, parking areas, and open space with respect to neighboring properties.
2. Historic impact: Identification of impacts on significant historic properties, historic districts or areas, or archaeological resources in the vicinity of the proposed development.
3. Development goals: Evaluation of the proposed project's consistency or compatibility with existing local and regional *master plans or comprehensive plans*.

10.130 The *appropriate Site Plan Reviewing Board*, at its discretion and based upon a preliminary assessment of the scale and type of development proposed, may waive or modify the requirements for submission of any of the elements of the Development Impact Report described in Section 10.120, above. Such waiver shall be issued in writing *and shall be accompanied* by supporting reasons.

10.200 - Criteria:

- 10.210 In reviewing Site Plans, the appropriate *Site Plan Reviewing Board* shall consider *all of* the following:
- A. Protection of *abutting property* and the adjoining neighborhood from any detrimental impact resulting from the use of the subject property, including, but not limited to, *protection from* the creation of a nuisance by virtue of noise, odor, unsightliness, or vibration.
 - B. *Traffic flow and* convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets *and ways*, properties, or improvements.
 - C. Adequacy of *water supply and of* the methods of disposal of sewage, refuse and other wastes; *stormwater runoff* and surface water drainage; and protection of wetlands, watersheds, aquifers

and well areas and the potential *impact to such resources* from the use, storage or disposal of any substances which could enter the water supply or wetlands.

- D. Provision for off-street *parking and* loading and unloading of vehicles incidental to the servicing of the buildings and related uses on the subject property.
- E. Scale of all proposed structures *and integration of development into the existing terrain and surrounding landscape*.
- F. *Public safety and* fire protection needs.
- G. Compliance with the provisions of this By-Law.

10.300 - Procedure:

- 10.310 *Twelve (12) copies of Site Plans subject to this Section shall be submitted to the appropriate Reviewing Board as specified in Section 10.010, and one (1) additional copy shall be filed with the Town Clerk. In the case of plans submitted to the Planning Board, the applicant shall also, within forty eight (48) hours, forward a copy of said plans to the Planning Board's Consultant Review Engineers. The Reviewing Board shall transmit copies of the plan to the Board of Health, the Conservation Commission, the Department of Public Works, the Fire Department, and Building Inspector and, in the case of plans submitted to the Zoning Board of Appeals, to the Planning Board, each of which shall within thirty-five (35) days of such transmittal, report to the Reviewing Board to which the plan was originally submitted for approval. No decision shall be made by said Reviewing Board in connection with any application for approval of a Site Plan until reports have been received from the Board of Health, the Conservation Commission and, if appropriate, the Planning Board, or thirty-five (35) days shall have elapsed following such transmittal without receipt of such reports.*
- 10.320 The Site Plan Reviewing Board may adopt procedural regulations governing submittal requirements for Site Plan applications from time to time at posted public hearings in conformance with Section 9 of Chapter 40A of the Massachusetts General Laws.
- 10.330 A public hearing shall be held in accordance with the provisions of Sections 9 & 11 of Chapter 40A of the *Massachusetts General Laws* within sixty-five (65) days of the filing of the application for approval under this Section.

- 10.340 The *Reviewing* Board shall not approve a *Site Plan* unless it *determines* that said plan meets the criteria established in Section 10.200, above. If, in the opinion of the *Reviewing* Board, the plan fails to meet the above criteria, it can be disapproved or approved with conditions in a manner which will bring about compliance with the provisions of this By-Law and the criteria of Section 10.200.
- 10.350 The *Reviewing* Board shall act within ninety (90) days of the close of the public hearing held under this Section or the application shall be deemed to be *constructively* approved.
- 10.360 No building permit shall be issued for any building or structure for which Site Plan Approval is required unless approval thereof shall have been obtained in compliance with this Section.
- 10.370 Substantial use or construction *under* a Site Plan *Approval* shall commence within one (1) year of the filing of said Site Plan Approval with the Town Clerk, or *said* Site Plan Approval shall become null and void. Substantial use or construction shall be defined as completion of the foundation. In the case of a Site Plan *Approval* where site work such as paving and detention basin construction is proposed without building construction, substantial use or construction shall be defined as clearing of that portion of the site subject of the Site Plan *Approval*.
- 10.380 Applicants shall notify the Site Plan *Reviewing* Board by certified mail at least two (2) weeks prior to beginning any site work. At least one (1) week prior to beginning any site work, an on-site construction meeting shall be held with the applicant's engineer and on-site construction supervisor *along* with representatives of the Planning Board, Conservation Commission, Building Inspector, Board of Health, Department of Public Works and Fire Department.
- 10.390 Site Plan Approvals shall state a period of time, not to exceed two (2) years, within which the project shall be completed. Failure to complete the project within the stated time shall cause the Site Plan Approval to lapse. Said two (2) year time period shall begin at the date of the on-site pre-construction meeting. *Exceptions to this criteria are as follows:*
- A. Applicants may request an extension of the one (1) year commencement period as well as an extension of the two (2) year completion period. Such extension(s) may be granted for good cause and the reasons *for such grant* shall be *committed* in writing by the Site Plan *Reviewing* Board.

- B. The stated time period shall be extended by any such time as may be required to pursue or await the determination of any appeal of the *Reviewing Board's* approval.

10.400 - Limited Site Plan Review:

- 10.410 It is the intent of this Section to simplify and expedite the preparation of Site Plans for *smaller* projects in instances where *development* can occur without any negative impact.
- 10.420 The *Site Plan Reviewing Board* may, at its own discretion, waive some of the requirements of Section 10 if it determines that the proposed project will have minimal impact on the surrounding area and that it will have no impact on residential areas.
- 10.430 To qualify, new construction or expansion shall *not exceed two thousand* (2,000) square feet of floor area *nor four thousand* (4,000) square feet of paved areas.
- 10.440 *If a project qualifies*, the *Reviewing Board* may waive the requirement for a Public Hearing and may waive some or all of the requirements for Site Plan contents, as delineated in Section 10.100.
- 10.450 When a Site Plan believed to qualify under this Section is submitted, the *Reviewing Board* shall make a written determination within *twenty-one* (21) days of submission as to whether or not a Public Hearing will be required. Any project requiring a Special Permit shall be subject to the requirements of a Public Hearing but may be eligible for waivers of the requirements of Section 10.100. In such instances, the *Reviewing Board* shall communicate with and secure agreement from the Department of Public Works and the Conservation Commission (if either or both are involved with any aspect of the proposal) that such waivers are appropriate.
- 10.460 The contents of the Site Plan shall be prepared by a registered professional engineer. Certain *requirements* under Section 10.100 may be waived if, in the opinion of the *Reviewing Board*, such *requirements* are not essential for approval or if such *requirements* have been met by any previously approved Site Plan.

SECTION 11 - MITIGATION OF DEVELOPMENT IMPACTS FOR SITE PLANS AND SPECIAL PERMITS

11.000 - Purpose:

Mitigation shall be required for the purpose of assuring equity, proper allocation of impacts, and the completion of public improvements necessary to support new development projects.

11.100 - Applicability:

Mitigation shall be required for projects which exceed the threshold criteria of Section 10.030 of this By-Law and for projects which have an impact upon the infrastructure of the Town in accordance with the following:

- 11.110 Special Permits for Size: Special Permit applications for size *require Site Plan Approval pursuant to this Section* and shall be required to mitigate the impacts of the proposed project. Said application shall be accompanied by a Development Impact Statement as required in Section 10.120. Said statement shall contain a proposal for assisting the Town in meeting its infrastructure and planning requirements as determined by the *project's* impacts including, but not limited to, the impact on the capacity and safety of *streets and ways*, intersections, pedestrian ways, water, sewer, drainage, solid waste and other public facilities and concerns. A project's impact on Town infrastructure shall be evaluated based upon the Development Impact Statement and *the* Environmental Impact Statement submitted in compliance with Special Permit and Site Plan *Review* criteria.
- A. The value of mitigation shall be a minimum of three (3) dollars per square foot of gross floor area, except that in the Industrial District and the Fireworks District, the value shall be a minimum of one (1) dollar per square foot of gross floor area. The exact value of mitigation per square foot of gross floor area shall be based on the level of impact of the project.
 - B. Said mitigation shall include off-site improvements as required by the Planning Board to improve the capacity and safety of *streets and ways*, intersections, pedestrian ways, water, sewer, drainage, solid waste and other public facilities in conformance with the Special Permit criteria.
 - C. If the value of off-site improvements does not exceed the

total value of mitigation set by the Planning Board, *the remaining* mitigation shall also include contributions to Town funds such as the Rt. 53 Design Fund, the Street Safety Fund, the Planning Board Oversight Fund and other capital and capital planning funds designated by the Planning Board. Other funds may include, but not be limited to, capital funds benefiting the Department of Public Works, Fire Department, and Police Department as referenced in a report entitled "Impact Fees in Hanover, Report to the Planning Board", prepared by SEA Consultants, as updated.

- D. The total cash value of off-site improvements and contributions to town funds shall not exceed the total value of mitigation set by the Planning Board, unless agreed to in writing by the project proponent. The purpose of said funds must bear a relationship to the project's impact on public facilities and/or public needs.

11.120 Site Plans and Special Permit applications that are for a use that does not require a Special Permit for size: If an application for a Site Plan Approval or Special Permit other than for size has an impact on Town infrastructure, the applicant shall be required to mitigate that impact. The impact shall be discussed in the Development Impact Statement and the Environmental Impact Statement submitted in compliance with Special Permit and Site Plan Review criteria. A project shall be automatically considered as having an impact if it will generate any of the following:

- A. *Thirty* (30) or more vehicle trips at peak hour according to the Institute of Traffic Engineers Trip Generation Manual, latest edition. For the purpose of this Section, one (1) vehicle in and out of a site constitutes one (1) trip.
- B. If located in the Aquifer Protection Zone and the project generates more than one hundred (100) gallons per day of normal office/dry goods, retail/restaurant or other wastewater free of toxic chemicals, other than what is found in normal residential wastewater. (Both in type and quantity).
- C. If located in the Aquifer Protection *Zone*, and the project uses chemicals deemed to be hazardous by the Board of Public Works (as listed in Section 6.840) regardless of the volume of sewage generated.

- D. *Notwithstanding the provisions of paragraphs B. and C., above, impact on the Aquifer Protection Zone shall be deemed fully mitigated by tertiary treatment of wastewater as approved by the Board of Public Works, the Board of Health and the Massachusetts Department of Environmental Protection.*

11.200 - Mitigation Procedure and Value:

The applicant may mitigate traffic impact through off-site improvements as specified in Section 11.110 above. If an applicant cannot completely mitigate project impacts with off-site improvements or tertiary treatment of wastewater as outlined in Section 11.120, the applicant shall make contribution to funds as specified below. The total value of off-site and cash contributions shall be as follows:

- 11.210 For traffic, mitigation shall be *a minimum of twenty dollars (\$20.00)* per vehicle *at* peak hour traffic.
- 11.220 For office, dry goods, retail or other non-toxic wastewater *generation*, mitigation shall be *a minimum of ten dollars (\$10.00)* per gallon for daily gallonage *of wastewater generated for the project pursuant to Title V (310 CMR 15.000 et. seq.)* calculations according to the Board of Health or its agent.
- 11.230 For restaurant wastewater, mitigation shall be one dollar (*\$1.00*) per gallon for the gallonage of daily wastewater generated as determined by the Board of Health in compliance with Title V (*310 CMR 15.000 et.seq.*), up to a maximum of *three thousand dollars (\$3,000)*.
- 11.240 For a use deemed hazardous, as listed in Section 6.840, a minimum of *one thousand dollars (\$1,000)* and a maximum of *five thousand dollars (\$5,000)* shall be assessed.

11.300 - Mitigation Funds:

Cash contributions for mitigation shall be made as follows:

- 11.310 Mitigation funds for traffic shall be *paid as specified* in Section 11.110.
- 11.320 Mitigation for wastewater in the Aquifer Protection Zone shall *be deposited* into a fund that will pay for the study and protection of the Town's water supply.

SECTION 12 - ADMINISTRATION

The provisions of this By-Law and any amendments thereto shall be administered and enforced, *in accordance with the following provisions, either* by the Selectmen acting as Building Inspector or by the Building Inspector appointed by the Selectmen.

12.000 - Building Permits:

Building permits shall be administered as follows:

- 12.010 No construction for a building or structure shall be started, and no building or structure shall be erected, moved, altered or changed until a Building Permit for the proposed work or change as provided for in the *Massachusetts State Building Code, 780 CMR* shall be applied for and granted.
- 12.020 No permit shall be granted for construction, alteration, relocation or use of any building, structure or premises in violation of any provision of this By-Law. Whenever any permit or license is *denied pursuant* to this By-Law, the reason therefore shall be clearly stated in writing.
- 12.030 An application for a Building Permit for a new or altered use of land or of a structure, or for construction, expansion, alteration, reconstruction or relocation of a building *or structure*, shall be made by the owner or his/her agent, in writing, on the forms and in the manner required by in the Hanover *Building Department*. *Said application* shall be accompanied by two (2) copies of a plot plan showing the site, size and shape of the lot, the names of the owners of record, the exact location of existing streets *and ways*, buildings, *structures*, proposed parking areas, and any additions thereto. The Building Inspector shall send one (1) copy of the plot plan to the Planning Board.
- 12.040 A record of applications herein referred to, and the action taken thereon, shall be kept on file in the *Building Department*.
- 12.050 The Building Inspector may issue a Building Permit only after he/*she* has viewed the premises and determined that the contemplated use, change, construction or alteration *shall* not be in violation of the *Town of Hanover* By-Laws and that water service and fire hydrants are in place and activated prior to the issuance of *said* Building Permit. After issuance of the Building Permit, the Building Inspector shall make a *minimum of* one (1) inspection while the work or construction is in progress to ascertain that there is no violation of said By-Laws as a

result of any changes or deviation made during the period of construction or alteration. Upon completion of the *permitted work*, and *prior to* occupancy by the owner, his/her agents, servants, tenants, lessees or assigns, the Building Inspector shall make a final inspection to determine *that* the completed work conforms to the permit and is not in violation of any *Town of Hanover* By-Laws.

12.100 - Occupancy Permits:

No building *or structure shall* hereafter *be* erected, altered, relocated or otherwise used, and no change shall be made in the use of any building *or structure* or of any parcel of land, unless an occupancy permit signed by the Building Inspector has been granted to the owner or occupant of such land, building *or structure*. Such permit shall not be granted unless the proposed use of the land, building *or structure* and all accessory uses comply in all respects with *the provisions of* this By-Law, and no use shall be made of such land, building *or structure* except the use or uses authorized by such occupancy permit.

12.200 - Basis for Appeals:

Any person aggrieved by reason of *an* inability to obtain a permit or enforcement action from the Building Inspector or other administrative officer under the provisions of this By-Law, the regional planning agency in which the Town is situated, or any person, including an officer or Board of the Town or of an abutting Town, aggrieved by an order or decision of the Building Inspector or other administrative officer, in violation of the provisions of Chapter 40A of the *Massachusetts* General Laws or any provision of this By-Law, may file an appeal in accordance with the provisions of Section 15 of Chapter 40A of the *Massachusetts* General Laws.

12.300 - Request for Zoning Enforcement:

If the Building Inspector is requested in writing to enforce the provisions of this By-Law against any person allegedly in violation of this By-Law and the Building Inspector declines to act, he/*she* shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

12.400 - Reinspection Permits:

Any change in use or occupancy of non-residential buildings *or structures*, and non-residentially used or zoned land shall not take place until a reinspection permit has been filed with and approved by the Building Inspector. The reinspection shall cover adherence to the *Massachusetts* State Building Code, *Massachusetts* Wiring Code, *Massachusetts* Plumbing Code and *Massachusetts* Gas Code and to this

By-Law as it pertains to *allowed and permitted* uses for the *zoning district* in which the site is located.

12.500 - Enforcement of the Zoning By-Law:

This Zoning By-Law shall be enforced in accordance with the following provisions:

- 12.510 Violations of this By-Law shall be determined by the Building Inspector upon investigation of the facts and inspection of the premises, after which he/*she* shall give notice thereof in writing to the owner or to his/*her* duly authorized agent and to the occupant of the premises, and shall order that any use of any premises contrary to the provisions of this By-Law shall immediately cease.
- 12.520 Any person violating any provisions of this By-Law, any of the conditions under which a permit is issued, or any decision rendered by the *Zoning* Board of Appeals, may be fined not more than three hundred dollars (\$300.00) for each offense. Each day that such violation continues shall constitute a separate offense.
- 12.530 In addition to the penalty provided in Section 12.520, above, the Building Inspector may institute appropriate legal proceedings to enforce the provisions of this By-Law or to restrain by injunction any violation thereof, or both.

SECTION 13 - ZONING BOARD OF APPEALS

The *Zoning* Board of Appeals as constituted under Article 37 of the Warrant for the Annual Town Meeting adopted March 1, 1954, shall be the *Zoning* Board of Appeals under this By-Law. Said *Zoning* Board of Appeals shall be appointed and shall operate in accordance with Section 12 of Chapter 40A of the *Massachusetts* General Laws.

13.000 - Powers of the *Zoning* Board of Appeals:

The *Zoning* Board of Appeals shall have the following powers:

- 13.010 To hear and decide appeals in accordance with Section 8 of Chapter 40A *of the Massachusetts General Laws*.
- 13.020 To hear and decide petitions for variances other than use variances in accordance with Section 10 of Chapter 40A *of the Massachusetts General Laws*.
- 13.030 *To act as the Permit Granting Authority and* to hear and decide applications for Special Permits for which approval of the *Zoning* Board of Appeals is required in accordance with the provisions of this By-Law.
- 13.040 To hear and decide applications for expansion of non-conforming uses in accordance with the provisions of Section 4 of this By-Law.

13.100 - Procedure Governing the *Zoning* Board of Appeals:

In exercising the powers granted by Section 13.000, the *Zoning* Board of Appeals shall act in accordance with the provisions of Chapter 40A *of the Massachusetts General Laws*.

13.200 - Time Limitations on Variance or Special Permit Grants:

Any variance or Special Permit granted by the *Zoning* Board of Appeals or the Planning Board shall lapse one (1) year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause *as determined by the applicable Board*.

SECTION 14 - AMENDMENT

14.000 - Amendment:

This *Zoning* By-Law may from time to time be changed by amendment, addition or repeal in the manner provided in Section 5 of Chapter 40A of the *Massachusetts* General Laws.

SECTION 15 - VALIDITY

15.000 - Validity:

- 15.010 Where this By-Law imposes a greater restriction upon the use, height and the area of structures or the use of premises than that which is imposed by other By-Laws, the provisions of this By-Law shall control. The invalidity of any Section or provision of this By-Law shall not invalidate any other Section or provisions thereof.
- 15.020 This copy of the Zoning By-Law for the Town of Hanover, Massachusetts originally adopted *June 6, 1955*, and approved by the Attorney General on *June 28, 1955*, has been corrected to include changes and amendments adopted through the Annual Town Meeting of *May of 1997*.