

**ZONING ORDINANCE
PRECINCT OF HAVERHILL CORNER
TOWN OF HAVERHILL, NEW HAMPSHIRE**

Revised March 25, 2010

**Article I
TITLE**

Pursuant to the authority conferred by New Hampshire Statutes Annotated 674:16 and in conformity with the Haverhill Corner Precinct Master Plan, the following ordinance is hereby enacted. This ordinance shall be known and may be cited as the Haverhill Corner Zoning Ordinance, hereinafter referred to as the "ordinance".

**Article II
PURPOSE**

This ordinance is designed to promote the health, safety and general welfare of the inhabitants of the Precinct of Haverhill Corner, to protect the value of property, to prevent the over-utilization of Precinct services, to avoid undue concentration of population and to facilitate the adequate provision of other public services and facilities.

**Article III
APPLICABILITY OF ORDINANCE AND NON-CONFORMING USES**

Except as provided, no land or building shall hereafter be used, constructed, altered or enlarged, unless it is in conformance with this ordinance. Every lawful use presently being made of land, structures or buildings in the Precinct of Haverhill Corner on the effective date of this ordinance, and that would be considered a non-conforming use under this ordinance, may be continued and is not affected by the provisions of this ordinance. Any alteration of a non-conforming use for a purpose or in a manner that is substantially different from the use to which it was put before alteration shall only be allowed by special exception.

**Article IV
DEFINITIONS**

For the purpose of this ordinance, the present tense includes the future tense and the plural number includes the singular. The word "shall" is mandatory; the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed" or "arranged" when used together with "to be used" or "occupied" and certain words or terms shall be interpreted as follows:

- 4.01 **ABUTTER:** Any person whose property adjoins or is directly across the street or stream from the land under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- 4.02 **ACCESSORY BUILDING OR STRUCTURE:** A building or structure detached from a principal building located on the same lot and commonly associated with the principal building or structure, but incidental and subordinate to the principal building or structure. Examples include, but not limited to: detached garages, swimming pools and equipment sheds. This definition does not include fences less than 6 feet high, mailboxes, and flagpoles.
- 4.03 **CLUSTER DEVELOPMENT:** A form of residential subdivision that allows housing units to be grouped on sites with sizes and frontages reduced from those otherwise required by the ordinance with the overall lot density remaining essentially the same as in a conventional development.

- 4.04 **COMMERCIAL:** Establishments engaged in the purchase and sale of goods or services.
- 4.05 **DWELLING:** A structure designed for residential occupancy by one or more families but excluding hotels, motels, tourist homes, bed and breakfasts or overnight cabins.
- 4.06 **EXISTING ROADS:** Includes all roads in the Precinct of Haverhill Corner, accepted by the town or state as of the date of passage of the ordinance.
- 4.07 **FLOODPLAIN:** See Section 5.03: District 3.
- 4.08 **FRONTAGE:** The length of a lot at its front lot line which borders on public street or a private street that has been approved by the Planning Board in a subdivision.
- 4.09 **HEIGHT:** The vertical distance from the average finished grade surrounding the building to the highest point of the highest roof. Residential television and radio antennas, cupolas, steeples and silos are excluded from the calculation of height.
- 4.10 **HOME OCCUPATION:** A home occupation is a secondary use of a dwelling that constitutes either entirely or partly the livelihood of a person living in the dwelling, subject to the conditions in Section 8.01.
- 4.11 **JUNK YARD:** A place used for storing and keeping, or storing and selling, trading, otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled or wrecked motor vehicles or parts thereof, unregistered semi-trailers, iron, steel, or other old or scrap ferrous or nonferrous material. Does not include any establishment or place of business registered with the Director of NH Motor Vehicles which is primarily engaged in doing auto body repair work, to make repairs, to tow vehicles, or to render a motor vehicle serviceable. As used in this ordinance, the term further includes, but is not limited to all types of junk yards defined in Chapter 236:112.
- 4.12 **LIGHT MANUFACTURING:** A business engaged in the on-site production and/or assembly for sale of goods, having not more than 5 production employees and whose scale and architectural style are compatible with the neighborhood.
- 4.13 **LOT:** A parcel of land of at least sufficient size to meet the minimum requirement of this ordinance for use, area, setback and other open spaces.
- 4.14 **LOT LINE, FRONT:** Any lot line that coincides with a line of a street or a right-of-way.
- 4.15 **LOT LINE, REAR:** The lot line most distant from the front line, except that in the case of a corner lot, the owner shall have the option of choosing which of the lot lines shall be the rear lot line. That choice shall not result in a non-conforming lot.
- 4.16 **LOT LINE, SIDE:** Any lot line not a front or rear lot line.
- 4.17 **MANUFACTURED HOUSING:** A structure, transportable in one or more sections, which exceeds either eight (8) body feet in width or forty (40) body feet in length, built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.
- 4.18 **MOTOR VEHICLE:** means "motor vehicle" as defined by RSA 259:60, I, namely, any selfpropelled vehicle not operated exclusively upon stationary tracks including ski area vehicles.
- 4.19 **MULTI-FAMILY HOUSING:** A residential or multi-use building designed for and occupied by three or more families, regardless of the type of ownership, such as, but not limited to, town

house, apartments or other common wall or row type housing units of the same type.

- 4.20 **MULTI-USE BUILDING:** A building containing two or more distinct uses.
- 4.21 **NON-CONFORMING USE:** A lawful use of a property at the time this ordinance is adopted that does not conform to the provisions and/or requirements of this ordinance.
- 4.22 **ON PREMISES SIGN:** Any sign located on the same property as the business it advertises.
- 4.23 **PERMITTED USE:** A use of a property that is allowed by right in a zoning district.
- 4.24 **PERSON:** Means any individual person, association, company, partnership, or any other natural or unnatural person.
- 4.25 **SEMI-TRAILER:** Shall mean a vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight or that of its load rests upon and is carried by the towing vehicle and not including a pair or set of wheels commonly used as an implement for other purposes than transportation, provided however, that the word "semi-trailer" shall not include any vehicle as described in this section if used exclusively agricultural purposes unless said vehicle be of the type constructed specifically to be towed by a tractor-type truck.
- 4.26 **SETBACK, FRONT:** The depth of the front yard as measured from the street right-of-way (front lot line) to the nearest front line of the principal building or an accessory building.
- 4.27 **SETBACK, SIDE:** The distance between the side of the closest principal or accessory building and the nearest side lot line.
- 4.28 **SETBACK, REAR:** The depth of the rear yard shall be measured from the rear lot line to the rear line of the closest principal or accessory building.
- 4.29 **SIGNS:** Any medium, including its structure and component parts, which is used or intended to be used to advertise a business or identify a non-business owner or occupant.
- 4.30 **STREET:** A thoroughfare, road, avenue, freeway, highway or other way, open to public use whether or not this way is maintained by the Town. "Street" shall mean the entire width of the right-of-way whether improved or unimproved.
- 4.31 **TRACT:** An area, parcel, site, piece of land or property that is the subject of a development proposal and application.
- 4.32 **WETLANDS:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- 4.33 **WORKFORCE HOUSING:** Housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Also, rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

**Article V
DISTRICTS**

DISTRICTS: The Precinct shall be divided into the following districts:

- 5.01 **DISTRICT 1** shall consist of the Haverhill Corner Historical District as entered in the National Register of Historic Places on 27 August 1987, excluding the Common District and any flood plain.
- 5.02 **DISTRICT 2** shall consist of all parts of the Precinct not in Districts 1,3 or 4. It shall be rural residential/agricultural.
- 5.03 **DISTRICT 3** shall consist of all land within the Precinct of Haverhill Corner identified as Flood Hazard Areas in the "Flood Insurance Study for the Town of Haverhill, NH as amended" together with associated Flood Insurance Rate Maps of the Town of Haverhill, as amended.
- 5.04 **DISTRICT 4** shall consist of the "Commons", an area of land bordered by Route 10, School Street and Park Street and bisected by Court Street.

**Article VI
AREA REGULATIONS AND HEIGHT**

6.01 **LOT SIZE AND FRONTAGE:** Lots on state or town roads shall be a minimum of one (1) acre in size, depending upon soil and slope conditions. Such lots shall have a minimum road frontage of one hundred fifty (150) feet. Lots not on state or town roads shall be a minimum of three (3) acres in size or larger, depending on soil and slope conditions. In determining lot size, no part of the land that is wetland or has slope greater than twenty-five (25) percent (%) will be counted towards the minimum size. All lots must be suitable to sustain development according to Precinct, town, or state standards, whichever is most restrictive.

6.02 **SETBACKS:**

A. Districts 1 and 2:

FRONT: A minimum distance of fifty (50) feet shall be required between any building or structure and the front lot line.

SIDE: A minimum distance of thirty (30) feet shall be required between any building or structure and a side lot line. Detached accessory buildings may, as a special exception, be approved to within fifteen (15) feet of a side lot line if the Board of Adjustment finds this would not be detrimental to the neighborhood.

REAR: A minimum distance of forty (40) feet shall be required between any building or structure and the rear lot line. Detached accessory buildings may, as a special exception, be approved to within twenty (20) feet of a rear lot line if the Board of Adjustment finds this would not be detrimental to the neighborhood.

B. District I:

For dwellings in District I fronting directly on Route 10, Court Street or the Common, the Board of Adjustment may, by special exception, allow the pre-existing setbacks to apply to the replacement of a destroyed building or discontinued use.

6.03 **HEIGHT:** Maximum height of any building shall be thirty-five (35) feet subject to the exceptions cited in Section 4.09.

6.04 **CLUSTER DEVELOPMENT:**

- A. The maximum number of dwelling units permitted in a cluster development shall be the same as would be allowed in the absence of cluster development in accordance with Section 6.01; however, the Planning Board may permit an increase in the overall density of the tract by no more than twenty (20) percent, providing that the increase in density will not impair the integrity or character of the district.
- B. Permanent protection from further development shall be provided for an area equal to or exceeding the sum of the areas by which individual lots are reduced. The layout of a cluster subdivision must be configured to concentrate development away from the most important resource areas and to ensure that the permanently protected open space preserves the Precinct's environmentally sensitive areas such as the river, streams, marshes, floodplains and slopes, preserves important scenic views and conserves forest, agricultural land and wildlife habitat. The protection may be in the form of a conservation easement to the town or other conservation organization. The protected land shall be shown on the final plat and the conservation restriction recorded with the Register of Deeds.
- C. The minimum area for individual building lots shall be no less than three-quarters (3/4) of an acre or larger, depending on soil and slope conditions, as may be suitable to sustain development according to state standards.
- D. Cluster development shall be used for single-family detached dwellings only.
- E. The right-of-way frontage for individual building lots within clusters shall be no less than one hundred (100) feet.
- F. All provisions of this ordinance not specifically superseded in this Section 6.04 shall remain in effect in any cluster development.

6.05 **MULTI-FAMILY HOUSING:** The number of dwelling units within a residential or multi-use building shall not exceed the number of single family dwelling units that may be placed on the property in the same District.

**Article VII
PERMITTED USES**

7.01 **DISTRICT 1:**

The uses of District I shall be compatible with and designed to preserve and/or complement the historical character of existing and traditional uses. A. Residential Uses Permitted:

- 1. Single family dwellings
- 2. Two-family dwellings
- 3. Accessory buildings or structures

B. Other Permitted Uses

- 1. Home products and produce may be bought, sold and exposed for sale.
- 2. Yard sales may be held up to twelve (12) times per year, and not to exceed twentyfour (24) days per year.

C Prohibited Uses

- 1. Manufactured housing
- 2. Junk yards

7.02 **DISTRICTS 1 AND 2:**

A. Uses Permitted by Special Exception:

1. Restaurants
 2. Antique stores
 3. Bed and breakfast and tourist homes
 4. Schools
 5. Nursery schools and day care
 6. Multi-family dwellings
 7. Church, parish house or other religious use
 8. Community center, museum, hall, lodge, park or playground if each is operated by a non-profit organization
 9. Home occupations
 10. Multi-use building
 11. Cluster development
 12. Offices and facilities of non-profit and governmental organizations
- B. Conditions may be attached to the special exceptions granted by the Zoning Board of Adjustment consistent with the intent and purpose of this ordinance.
- C. Commercial uses, other than those mentioned previously, may be established by the grant of a special exception by the Zoning Board of Adjustment. The special exception may be conditioned upon site plan approval by the Planning Board. The following regulations and restrictions shall be observed:
1. The site design shall make reasonably efficient use of the site topography, existing landscaping and building placement so as to preserve existing trees and natural features, preserve vistas and river views from public ways and minimize intrusion into the character of existing development.
 2. No business, commercial, or governmental use shall be permitted which could cause any undue hazard to health, safety or property values or which is offensive to the public because of noise, vibration, excessive traffic, unsanitary conditions, noxious odor, smoke, directional lighting that extends beyond the property line, or other similar reason.
 3. Sufficient acreage shall be included to allow the following setbacks:
 - (a) Not less than seventy-five (75) feet from a front lot line to any building or parking lot with grass or beautification in the buffer area.
 - (b) Not less than fifty (50) feet from a building or parking lot to the side or rear lot line.
 4. Uses likely to generate more than twenty-five (25) auto trips per hour in total to and from the premises in the busiest hour of the day in the month with the highest average use shall be allowed only if directly served by Routes 10 or 25.

7.03 DISTRICT 2:

A. PERMITTED USES: In addition to the uses in 7.01, the following uses are permitted in District 2:

1. Agricultural use which includes but is not limited to dairy farming, greenhouses, poultry husbandry, horticultural uses and pasturage as defined in RSA 21:34a.
2. Manufactured housing.
3. In addition to the uses listed in 7.02A, light manufacturing uses may be permitted by special exception, subject to the conditions set forth in 7.02B and C.

B. PROHIBITED USES:

1. Junk yards

7.04 **DISTRICT 3:**

A. **PERMITTED USES:** Any use that does not result in the erection of any dwelling or commercial structure or alter the ground surface configuration by the addition of fill or dredging. Such uses include:

1. Cultivation, conservation and tillage of the soil, using best management practices to ensure vegetated buffers are maintained and to reduce sedimentation during floods.
2. Forestry and tree farming
3. Water impoundment and well supplies
4. Drainage on fields not designated as wetlands and normal (routine) maintenance of drainage ways, streams, creeks and other paths of normal run-off
5. Wildlife refuge
6. Parks and such recreational uses as are consistent with the purpose of creating the Wetlands and Flood Prone Conservation District
7. Conservation areas and nature trails
8. Open space as permitted by the Precinct's land use regulations
9. Access ways if essential to the productive use of the land
10. Utility rights of way or easements including power lines and pipe lines
11. Agricultural buildings

B. **PROHIBITED USES:**

2. Any development or encroachment (including fill) that would result in any increase in flood levels during the base flood discharge
3. Wetlands drainage
4. Junk yards

7.05 **DISTRICT 4:**

A. **PERMITTED USES:**

No use or structure shall be permitted in this zone except those that are for the common use or for the common benefit of all landowners in the Precinct. A vote of two-thirds of those present and voting at a duly held meeting of the Precinct voters at which the matter had been warned shall be required to authorize any permanent structure or alteration. A temporary use or structure may be permitted by specific permission of the Commissioners of the Precinct of Haverhill Corner.

B. **PROHIBITED USES:**

1. Junk Yards

**Article VIII
GENERAL REGULATIONS**

8.01 **HOME OCCUPATIONS** shall be permitted provided that the following conditions are met:

- A. The home occupation is carried out wholly within the dwelling, which is the primary residence of the proprietor of the business.
- B. There are no alterations to a building exterior and no outside storage.
- C. The occupation consumes no more than fifty (50) percent of the total floor space of the existing dwelling.

D. No objectionable noise, vibration, smoke, dust, odors, heat, light, glare, or electronic or other interference is generated.

8.02 **OFF-STREET PARKING:** A parking space shall be nine (9) feet x twenty (20) feet. The following are requirements for off-street parking.

A. **RESIDENTIAL:** two spaces for each family unit.

B. **COMMERCIAL:** one space for each two (2) anticipated patrons or employees on the premises at the same time.

C. **RESTAURANT:** adequate parking for staff and one space for each four (4) seats.

D. **TOURIST ACCOMMODATION:** adequate parking for staff and one space for each unit.

E. **OTHER:** Adequate parking for accessory uses, e.g. tennis court, swimming pool and/or other private or public recreation facilities must be provided.

8.03 **SIGNS:**

A. All signs must be on-premises and maintained in good condition and repair.

B. The area of one side of a sign shall be regarded as the total area of the sign. This includes the advertising surface and any framing or molding but excludes the supporting structure.

C. The maximum number of signs allowable, free standing or attached, is two (2) on-premises signs per lot for commercial purposes and one (1) per lot for residential or home occupation use, not more than one of which shall be freestanding.

D. For residential use, a sign not exceeding four (4) square feet is allowed which announces the name, address and/or profession of the occupant of the premises on which said sign is located.

E. For home occupations a sign shall not exceed twelve (12) square feet. No more than one sign may be freestanding.

F. For all other uses a maximum of thirty (30) square feet for each sign and a maximum of fifty

(50) square feet for all signs will be allowed. No more than one sign may be freestanding.

G. The maximum height for any sign, including a supporting structure, shall be twelve (12) feet. When attached to a building, it shall not extend above the eaves.

H. Signs shall not interfere with the line of sight for street traffic or public pedestrian walkways.

I. All freestanding signs shall be set back at least ten (10) feet from the edge of the pavement or traveled portion of any public right-of-way. No sign shall be in the deeded portion of a public right of way.

J. Only one sign per lot may be lit and then only by white, non-flashing light from an external source, which illuminates only the advertising surface. Sign lighting shall not interfere with the vision of motorists or pedestrians.

K. For commercial uses all signage shall be subject to site plan approval by the Planning Board.

Article IX ADMINISTRATION

9.01 **ENFORCEMENT:** It shall be the duty of the Precinct Commissioners or their agent(s) to administer this ordinance.

ENFORCEMENT AS APPLIED TO JUNKYARDS: Any person including but not limited to a landowner, the landowner's agent or a contractor, who is determined by the Precinct

Commission or its agent(s) to be in violation of the junk yard provisions within this ordinance or the Statutes of the State of New Hampshire is subject to penalties, local enforcement injunctions and civil penalties as identified in Chapter 236:127, Chapter 236:128, or other pertinent local legislation or State of New Hampshire Statute.

NON-CONFORMING USE AS APPLIES TO JUNK YARDS: No non-conforming use shall be changed to another non-conforming use and no such non-conforming use shall be enlarged or extended at the time non-conformance commenced.

- 9.02 **PERMITS:** A building permit, issued by a representative of the Board of Selectmen of the Town of Haverhill *and* signed by the Zoning Enforcement Officer of the Precinct of Haverhill Corner, or the designated agent of the Precinct Commissioners, shall be required for an owner to erect a new structure or an addition to an existing structure.
- 9.03 **PENALTIES:** The Precinct Commissioners or their designees are hereby authorized to enforce the provisions of the ordinance as provided by any applicable state law as the same may be amended from time to time, including, but not limited to, RSA 676:15 and RSA 676:17

Article X BOARD OF ADJUSTMENT

- 10.01 **BOARD OF ADJUSTMENT:** A five (5) person Board of Adjustment and three (3) alternates will be appointed by the Precinct Commissioners as provided by RSA 673 and 673:3. The board may, upon application:
- A. Review and decide on alleged error in administrative finding, or B.
 - Review and decide on request for special exception, or
 - C. Grant a variance.
- 10.02 **SPECIAL EXCEPTION** is an allowable use of property or building that may be permitted under this ordinance only upon formal application to the Zoning Board of Adjustment and subject to the approval of the Board when such use would not be detrimental to the public health, safety and general welfare and only in particular cases where the words "special exception" in this ordinance pertain. A special exception shall be allowed if the following conditions are met:
- A. The specific site is an appropriate location for such a use.
 - B. Property values in the district will not be reduced by such a use.
 - C. No nuisance or unreasonable hazard shall result.
 - D. Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.
 - E. For District 1, in particular, reference to general welfare shall include special regard for the historical values of the District.
- 10.03 **VARIANCE** as defined in RSA 674:33, is a relaxation of the terms of this ordinance granted by the Zoning Board of Adjustment on appeal as long as it is not contrary to the public interest, and, if owing to special conditions, literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

The Zoning Board of Adjustment may, on an appeal, grant a variance from the provisions of the ordinance if the Board of Adjustment finds all the following conditions and such finding is specified in its decision:

- A. No diminution in value of surrounding properties would be suffered;
- B. Granting the permit would be of benefit to the public interest;
- C. Denial of the permit would result in unnecessary hardship to the owner seeking it; D. By granting the permit substantial justice would be done; and
- E. The use must not be contrary to the spirit of the ordinance.

In determining whether the applicant meets the above five conditions, the Zoning Board of Adjustment shall consider the following criteria as an aid to its deliberations:

1. There are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the ordinance in the neighborhood or district in which the property is located.
2. Because of such physical circumstance or conditions there is no possibility that the property can be used in strict conformity with the provisions of this ordinance for a permitted use of the applicant's choice and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. If authorized, the variance will not alter the essential character of the neighborhood or district in which the property is located nor substantially or permanently impair the appropriate use or development of adjacent property nor be detrimental to the public welfare.
4. If authorized, the variance will represent the minimum variance that will afford reasonable relief; and
5. The spirit of the ordinance shall be observed and substantial justice done.

In authorizing a variance, the Zoning Board of Adjustment may attach such conditions and safeguards, as it deems necessary to protect the neighborhood and the community, including, but not limited to, a time limit when the variance will expire if not utilized.

10.04 **ADDITIONAL INFORMATION:** The Zoning Board of Adjustment may require the applicant to submit other information it deems necessary to its reaching a decision regarding application for a special exception or variance. The Zoning Board of Adjustment may also engage a qualified professional consultant of its choice to provide such additional information and opinion as may assist the Board in its deliberations. The applicant shall pay the cost of obtaining such additional information.

10.05 **FEES** will be set by the Zoning Board of Adjustment and shall be sufficient to cover the expenses of the Board.

Article XI AMENDMENTS

This ordinance may be amended according to the provisions of NH RSA 674 as it is, or may be amended.

Article XII
SAVING CLAUSE

The invalidity of any provision of this ordinance shall not affect the validity of any other provision of this ordinance.

Article XIII
RULE OF PRECEDENCE

Whenever any provision of this ordinance is in conflict with any state or local ordinance, the more stringent provision shall apply.

Article XIV
EFFECTIVE DATE

This ordinance shall become effective immediately upon its passage.