

(15) To provide for procedures for the administration of the Zoning Ordinance.  
(Ch. 134, § 1, 12-19-94)

### **Section 2. Definitions.**

The following words or terms used in this ordinance shall have the following meanings:

(1) *Abutter*. One whose property adjoins at a border, boundary, or point with no intervening land.

*(2.) Aquifer: A saturated, permeable geologic formation that can yield significant quantities of water to wells, springs or surface water bodies.*

*(3.) Aquifer Protection Permit: A permit allowing a use designated by the letter " A" in the Primary or in the Secondary Groundwater and Wellhead Protection Zone District in the District Use Table of this Ordinance.*

(4) *Accessory family dwelling unit*. An accessory dwelling unit for the sole use of one or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress and egress.

(5) *Accessory use / structure*. A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building or the structure in which the use takes place. The incidental sale of products raised on a farm shall be considered accessory thereto.

(6) *Aggrieved party*. An aggrieved party is:

(a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the Zoning Ordinance of the Town of Hopkinton; or

(b) Anyone requiring notice pursuant to R.I.G.L., chapter 45-24.

(7) *Agricultural land*. "Agricultural land," as defined [in] R.I.G.L., chapter 45-22.2-4, as may be amended: Agricultural land means land suitable for agriculture by reason of suitability of soil or other natural characteristics or past use for agricultural purposes. Agricultural land includes that defined as prime farm land or additional farm land of statewide importance for Rhode Island by the Soil Conservation Service of the United States Department of Agriculture.

(8) *Applicant*. An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency of the Town of Hopkinton.

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(9) *Application.* The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by an approving authority for development review, approval, or permitting purposes.

***(10) Best Management Practice: A schedule of activities, prohibition of practices, maintenance procedures and other management practices designed to prevent or reduce the degradation of the town's groundwater quality.***

(11) *Buffer.* Land which is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.

(12) *Building.* Any structure used or intended for supporting or sheltering any use or occupancy.

(13) *Building envelope.* The three-dimensional space within which a structure is permitted to be built on a lot and which is determined by regulations including those governing building setbacks, maximum height, and lot coverage.

(14) *Building height.* The vertical distance from average finished grade to the top of the highest point of the roof or structure. The distance may exclude spires, chimneys, flag poles, and the like.

(15) *Cluster development.* A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally, historically, culturally, or other sensitive features and/or structures. The techniques used to concentrate buildings are specified chapter 123 [chapter 18, §§ 18-180-18-200] of the General Ordinances of the Town of Hopkinton. Under cluster development there is no increase in the number of lots over that which would be permitted under conventional development except for provisions which include incentive bonuses for certain types or conditions of development.

(16) *Common ownership.* Either:

(a) Ownership by one (1) or more individuals or entities in any form of ownership of two (2) or more contiguous lots; or

b) Ownership by any association (such ownership may also include a municipality) of one (1) or more lots under specific development techniques.

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(17) *Community residence.* A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to the following:

(a) Whenever six (6) or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to R.I.G.L., chapter 40.1- 24. All requirements pertaining to local zoning are waived for these community residences;

(b) A group home providing care or supervision, or both, to not more than eight mentally disabled or mentally handicapped or physically handicapped persons, and licensed by the state pursuant to R.I.G.L., chapter 40.1- 24;

(c) A residence for children providing care or supervision, or both, to not more than eight children including those of the care giver and licensed by the state pursuant to R.I.G.L., chapter 42-72.1;

(d) A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8) persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse, or neglect, and who are expected to reside in that residence not less than sixty (60) days nor more than two (2) years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.

***(18) Community Water System: A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.***

(19) *Comprehensive plan.* The Comprehensive Plan of the Town of Hopkinton adopted and approved pursuant to R.I.G.L., chapter 45-22.2, and to which any zoning adopted pursuant to R.I.G.L., chapter 45-24, shall be in compliance.

***(20) Conservation Commission: The Conservation Commission of the Town of Hopkinton.***

***(21) Containment Structure: A structure designed, built and maintained for the purpose of sufficiently enclosing an above ground storage tank or individual storage containers, e.g. drums, to contain spills until spill cleanup and which precludes entry of water and other materials not intended for storage therein and from which entry by unauthorized persons is prevented.***

(22) *Day care-Day care center:* Any other day care center which is not a family day care home.

(32) *Family*. A person or persons related by blood, marriage, or other legal means. See also "Household."

(33) *Floating zone*. An unmapped zoning district adopted within the ordinance which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.

(34) *Floodplains, or flood hazard area*. As defined in R.I.G.L., § 45-22.2-4, as may be amended: Floodplains or flood hazard area means an area that has a one (1) percent or greater chance of inundation in any given year, as delineated by the Federal Emergency Management Agency pursuant to the National Flood Insurance Act of 1968, as amended (P.L. 90-448) [42 U.S.C. 4011 et seq.].

***(35) Groundwater: Water found underground which completely fills the open spaces between particles of sediment and within rock formations.***

(36) *Halfway houses*. A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to facilitate the transition to a functional member of society.

(37) *Hardship*. See section 9 Variances.

***(38) Hazardous Material: Any material defined as a "hazardous substance" by section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 (42 USC 9605) as amended. Hazardous Material shall include any hazardous waste as well as any of the following materials: acetone, ethanol, ethylene oxide, methanol, methylene chloride, perchloroethylene and petroleum products. The enumeration of the above materials is not intended in any way to minimize the list of materials defined in the aforesaid section.***

(39) *Historic district, or historic site*. As defined in R.I.G.L., §§ 45-22.2-4 (15) & (16) as may be amended:

(a) *Historic district* means one or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, and has been registered, or is deemed eligible to be included, on the state register of historical places pursuant to R.I.G.L., § 42-45-5.

(b) *Historic site* means any real property, man made structure, natural object, or configuration or any portion or group of the foregoing which has been registered, or is deemed eligible to be included, on the state register of historic places pursuant to R.I.G.L., § 2-45-5.

(40) *Home occupation*. Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit, employing not more than one (1) employee from outside the home on the premises. The term "home occupation" includes the office of a contractor together with the daily storage on the property of not more than

- (b) *Nonconforming by dimension.* A building, structure, or parcel of land not in compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations include all regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of the zoning ordinance shall be nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.

***(57) Non-Transient Non-Community Water System: A non-community water system that regularly services at least 25 of the same persons over six months of the year.***

(58) *Overlay district.* A district established in the zoning ordinance that is superimposed on one (1) or more districts or parts of districts and that imposes requirements in addition to those otherwise applicable for the underlying district.

(59) *Performance standards.* A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.

(60) *Permitted use.* A use by right which is specifically authorized in a particular zoning district.

***(61) Petroleum Product: Crude oil or any fractions thereof that are liquid at standard conditions (60 degrees F) and pressure (14.7 pounds per square inch absolute) and includes substances derived from crude oil including, but not limited to, the following: gasoline, fuel oils, diesel oils, waste oils, gasohol, lubricants, and solvents.***

(62) *Planned unit development.* A "land development project," as defined herein, and characterized by a unified site design for clustered buildings, common open space, and a mixture of building types and land uses. Planned unit development may be used for a variety of uses, such as residential complexes, shopping centers, industrial and office parks, and mixed-use developments.

(63) *Planning board.* The Hopkinton Planning Board.

(64) *Preapplication conference.* A review meeting held between applicants and reviewing agencies before formal submission of an application for a permit or for development approval.

***(65) Primary Groundwater and Wellhead Protection Zone Overlay District. Those areas depicted on that certain map entitled "Groundwater and Wellhead Protection Map, Hopkinton, RI", dated \_\_\_\_\_ or the most recent revision adopted by the town council, which map is on***

*file in the records of the Town Clerk of the Town of Hopkinton.*

*(66) Recharge Area: The land surface from which water is added to the zone of saturation. The recharge area for a particular well or aquifer is that land surface from which water moves to the well or aquifer or may move to the well or aquifer under certain hydraulic conditions.*

*67) Secondary Groundwater and Wellhead Protection Zone Overlay District. Those areas depicted on that certain map entitled "Groundwater and Wellhead Protection Map, Hopkinton, RI", dated \_\_\_\_\_ or the most recent revision adopted by the town council, which map is on file in the records of the Town Clerk of the Town of Hopkinton.*

*(68) Setback line or lines. A line or lines parallel to a lot line at the minimum distance of the required setback for the zon-*

ing district in which the lot is located that establishes the area within which the principal structure must be erected or placed.

(69) *Site plan*. The development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.

***(70) Solid Waste: Any solid waste as defined in the Rhode Island Department of Environmental Management Rules and Regulations for Solid Waste Management Facilities, February 1991, and amendments thereto; and which shall include garbage, refuse and other discarded solid materials generated by residential, institutional, commercial, industrial and agricultural sources but does not include solids or dissolved materials in domestic sewage or sewage sludge, nor does it include hazardous waste. Solid waste shall also include non-hazardous liquid, semi-solid and containerized gaseous waste.***

(71) *Special use*. A regulated use which is permitted pursuant to the special-use permit issued by the authorized governmental entity, formerly referred to as a special exception.

(72) *Street right-of-way*. An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded in the land evidence records intended for use as a street for vehicles or pedestrians or both.

(73) *Structure*. A combination of materials to form a construction for use, occupancy, or ornamentation, whether installed on, above, or below, the surface of land or water.

(74) *Substandard lot or record*. Any lot lawfully existing at the time of adoption or amendment of the zoning ordinance and not in conformance with the dimensional and/or area provisions of that ordinance.

(75) *Town council*. The Hopkinton town council.

***(76) Underground Storage Tank (UST): Any one or more combinations of tanks (including underground pipes connected thereto) used to contain petroleum or other hazardous material and which is located wholly or partly beneath the surface of the ground.***

(77) *Use*. The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained.

(78) *Variance*. Permission to depart from the literal requirements of the zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by the zoning ordinance. There are two (2) categories of variance, a use variance or a dimensional variance.

(a) *Use variance*. Permission to depart from the use requirements of the zoning ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the zoning ordinance.

(b) *Dimensional variance.* Permission to depart from the dimensional requirements of the zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

(79) *Waters.* As defined in R.I.G.L., chapter 46-12-1(b).

***(80) Wellhead Protection Area: The critical area surrounding a community water system well or non-transient non-community water system well through which water will move toward and reach such wells, as depicted on that certain map titled "The Groundwater and Wellhead Protection Map, Hopkinton, RI", dated \_\_\_\_\_ or the most recent revision adopted by the town council, which map is on file in the records of the Town Clerk of the Town of Hopkinton.***

(81) *Wetland, freshwater:* As defined in R.I.G.L., chapter 2-1-20.

***(82) Zone of Saturation: That subsurface area below the water table where all pore spaces between gravel and soil particles and all bedrock fractures are filled with water.***

(83) *Zoning board.* The Hopkinton Zoning Board of Review.

(84) *Zoning certificate.* A document signed by the zoning enforcement officer, as required in the zoning ordinance, which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of the town zoning ordinance or is an authorized variance or modification therefrom.

(85) *Zoning maps.*

(a) The map entitled: "Town of Hopkinton Zoning Map" prepared by Cherenzia & Assoc., Ltd., October 1994, Scale 1"=1200' and that set of maps entitled: "Town of Hopkinton Zoning District Maps," prepared by Cherenzia & Assoc., Ltd., October 1994, sheets 1-31, which maps are on file in the records of the town clerk of the Town of Hopkinton and which are adopted and made a part of this ordinance. The boundary lines of said districts are intended and are to be interpreted to follow the boundary lines of existing lots of record and the centerline of roadways, except as is clearly depicted to the contrary.

(b) ***The map entitled: "Groundwater and Wellhead Protection Map, Hopkinton, RI", dated \_\_\_\_\_ or the most recent revision adopted by the Town Council, which map is on file in the records of the Town Clerk of the Town of Hopkinton and which is adopted and made a part of this ordinance. The boundary lines of the primary and secondary overlay districts are intended and are to be interpreted to be based on physical features of the land and not to follow the boundary lines of existing lots of record and the centerline of roadways.***

(86) *Zoning ordinance*. Shall mean the Hopkinton Zoning Ordinance enacted by the town council of the Town of Hopkinton pursuant to R.I.G.L., chapter 45-24 and in the manner provided for the adoption of ordinances in the town's legislative or home rule charter, if any, which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with

**Section 3. Compliance with this ordinance.**

No building, structures or land located within the Town of Hopkinton shall be used and no building, structure or part thereof shall be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the provisions of this ordinance.

(Ch. 134, § 3, 12-19-94)

**Section 4. Division into districts.**

For the purposes of this ordinance the Town of Hopkinton is hereby divided into those zoning districts the location and boundaries of which are as shown and depicted on that certain map entitled: "Town of Hopkinton Zoning Map" prepared by Cherenzia & Assoc., Ltd., October 1994, Scale 1"=1200' and that set of maps entitled: "Town of Hopkinton Zoning District Maps," prepared by Cherenzia & Assoc., Ltd., October 1994, sheets 1-31, which maps are on file in the records of the town clerk of the Town of Hopkinton and which are adopted and made a part of this ordinance. The boundary lines of said districts are intended and are to be interpreted to follow the boundary lines of existing lots of record and the centerline of roadways, except as is clearly depicted to the contrary.

The Residential Special, Neighborhood Business Special, Commercial Special and Manufacturing Special zoning districts are composed of parcels of property which heretofore were the subject of a zoning map boundary change or amendment to the text of the prior zoning ordinance and in connection with which the town council imposed use limitations, conditions, and/or restrictions. The terms of such limitations, conditions, and/or restrictions shall continue to be applicable to each said property and shall be deemed readopted and incorporated herein. Except as the limitations, conditions, and/or restrictions as individually applicable to the property within each said zoning district are controlling the use and dimensional regulations of this ordinance from the Rural Farming Residential -80 district shall apply to the Residential Special district, the Neighborhood Business district shall apply to the

Neighborhood Business Special district, the Commercial district to the Commercial Special district, and the Manufacturing district to the Manufacturing Special district.  
(ch. 134, § 4, 12-19-94)

#### **Section 5. District use regulations.**

The following District Use Table establishes in each district those uses permitted and those uses permitted by special-use permit *or by aquifer protection permit*. All uses not so permitted in a district are prohibited therein. *Except for those uses and activities specifically identified in Section 6 of this ordinance, which follows below*, any accessory use customarily incident to a use permitted in a district and located on the same lot shall be permitted; any accessory use customarily incident to a use permitted in a district by special use permit *or aquifer protection permit* and located on the same lot shall be permitted upon the grant of the special-use permit *or aquifer protection permit* unless limited by special condition attached to the grant of the special-use permit *or aquifer protection permit*. It shall be the responsibility of the zoning enforcement officer to determine which use classification a proposed use is governed by.

(Ch. 134, § 4, 12-19-94)

#### **Section 6. Additional Prohibitions**

*The following are prohibited:*

1. *Residential Underground Storage Tank (UST) installations.*
2. *Non-residential UST installations in a Primary Protection Zone District. Non-residential UST installations (except those regulated by RIDEM) are permitted in the Secondary Protection Zone by Aquifer Protection Permit only.*
3. *In the Primary Protection Zone District, any discharge of liquid wastes and waste water containing suspended particles on site to the subsurface through septic systems, dry wells, galleys, or other means, except for the discharge of sanitary waste in accordance with an approved RIDEM individual septic disposal system. Such discharge is permissible in the Secondary Protection Zone by Aquifer Protection Permit only. RIDEM approved activities associated with the subsurface disposal of sewage from individual sewage disposal systems are permitted.*
4. *Land disposal of sewage sludge and septage in the Primary Protection Zone. Such disposal is permissible in the Secondary Protection Zone District by Aquifer Protection Permit only.*
5. *Uncovered storage of road salt and deicing material, without an impermeable storage and handling surface that will prevent contaminated runoff.*
6. *In the Primary Protection Zone, washing of motor vehicles, except incidental to residential uses or in a car wash that has an Aquifer Protection Permit, uses recycled water, and does not discharge to the environment.*
7. *Outdoor storage of hazardous materials, unless the Fire District Chief has determined that indoor storage would create a fire hazard in which case an Aquifer Protection Permit shall be required.*

8. *In the Primary Protection Zone, storage of petroleum or liquid refined petroleum products or their transfer through piping systems, except within a building (or, if the Fire District Chief has determined that indoor storage would create a fire hazard, in an accessory covered containment structure) as heating fuel for that building. Such storage of heating fuel shall not exceed 550 gallons, except for storage regulated and permitted by RIDEM.*
9. *In the Primary Protection Zone, parking, for more than two hours in any twenty four hour period, of any vehicle used for storage or delivery of fuel oil, gasoline, or other liquid petroleum products or hazardous material.*
10. *Installation of interior floor drains designed to permit fluid from any interior space to be discharged into or onto the ground, except for sump pumps and French drains used solely to accumulate and discharge groundwater from a residence (or, by Aquifer Protection Permit only, from a non-residential interior space). Provided, that such drains may be permitted, by Aquifer Protection Permit only, if designed to empty into an above ground storage tank capable of completely containing anticipated flows. Such tanks shall be subject to containment provisions as provided in this ordinance.*
11. *Uncovered storage of solid wastes and storage of solid waste in covered dumpsters with drain plugs removed.*
12. *Washing or rinsing of dumpsters in the Primary Protection Zone and in the Secondary Protection Zone except by Aquifer Protection Permit and the operation does not discharge to the environment.*

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*Note: In Section 9 Nonconforming development. (G) Limitation. Add in "...by variance, special-use permit or aquifer protection permit...". This page was unavailable to modify.*

(E) The zoning board shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:

(1) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and

(2) In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

(Ch. 134, § 10, 12-19-94)

### **Section 11. Special-use permits.**

(A) *Application.* An application for a special-use permit may be made by any person, group, agency, or corporation with a legal interest in the land to which it applies by filing in the office of the zoning enforcement officer an application describing the request.

The form and such data and/or evidence which comprise such an application is set forth in appendix C hereof. Said form and the data and/or evidence required thereby are incorporated herein and made a part of this ordinance.

Upon receipt of an application wherein the applicant seeks a waiver from the requirement of furnishing any item of data and/or evidence as required by said appendix, the zoning enforcement officer shall immediately transmit said application and waiver request to the zoning board, which shall hear and decide the waiver request at a regularly scheduled or special meeting of the zoning board. In the event the zoning board grants such a waiver request, the application, being otherwise in conformity with said appendix, shall be deemed complete. In the event the zoning board

(4) That all best practices and procedures to minimize the possibility of any adverse effects on neighboring property, the town, and the environment have been considered and will be employed, including but not limited to considerations of soil erosion, water supply protection, septic disposal, wet- land protection, traffic limitation, safety and circulation; and

(5) That the purposes of this ordinance, and as set forth in the comprehensive plan, shall be served by said special use permit.

(Ch. 134, § 10, 12-19-94)

## **Section 12 Aquifer Protection Permits**

*A. Application. An application for an Aquifer Protection Permit may be made by any person, group, agency or corporation with a legal interest in the land to which it applies by filing in the office of the zoning enforcement officer an application describing the request.*

*The form and such data and/or evidence which comprises such an application is set forth in the appendix C hereof. Said form and the data and/or evidence required thereby are incorporated herein and made a part of this ordinance.*

*Upon receipt of an application wherein the applicant seeks a waiver from the requirement of furnishing any item of data and/or evidence as required in the subsections hereof, the zoning enforcement officer shall immediately transmit said application and waiver request to the zoning board, which shall hear and decide the waiver request at a regularly scheduled or special meeting of the zoning board. In the event the zoning board grants such a waiver request, the application, being otherwise in conformity with these subsections, shall be deemed complete. In the event the zoning board does not grant the waiver request in full, the application shall not be deemed complete until all data and/or evidence required by said Appendix for which a waiver has not been granted, is filed in the office of the zoning enforcement officer.*

*Upon receipt of the complete application, the zoning enforcement officer shall immediately transmit it to the zoning board and shall transmit a copy to the planning board and to the conservation commission.*

*B. Planning board and conservation commission recommendations. The zoning board, at its next meeting after receipt of a complete application for an Aquifer Protection Permit may request that the planning board and/or town planner and the conservation commission report their findings and recommendations, including a statement on the general consistency of the application with the goals and purposes of the comprehensive plan of the town, writing to the zoning board within thirty (30) days of the zoning board request.*

*C. Notice and hearing. The zoning board shall hold a public hearing on any application for an Aquifer Protection Permit in an expeditious manner after receipt in proper form of a complete application, and shall give public notice thereof of at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in the town. Notice of hearing shall be sent by certified mail, return receipt requested, to the applicant and to all those owners of real property or other entities which would require notice under R.I.G.L, chapter 42-24-53, at least*

*fourteen (14) days prior to the date of the hearing. Said notice shall include the street address of the property for which the Aquifer Protection Permit is sought. The cost of notification shall be borne by the applicant.*

*D. Findings of zoning board. In granting an Aquifer Protection Permit, the zoning board shall be satisfied by legally competent evidence that the proposed use will not result in concentrations of pollutants in the groundwater that will adversely affect the groundwater as a source of potable water or its classification as GAA (suitable for public or private drinking water use without treatment) or GA (may be suitable for public or private drinking water use without treatment) as promulgated in the RIDEM "Rules and Regulations for Groundwater Quality" in accordance with Chapter 46-13.1 of the General Laws of Rhode Island, 1956, as amended.*

*E. Maintenance. All facilities and structures constructed in accordance with an Aquifer Protection Permit shall be maintained by the owner or operator to assure their ability to function as designed. Failure to properly maintain such facilities and structures shall constitute a violation of this ordinance and is subject to enforcement action of the town.*

### *Section 13. Best Management Practice Work Plan Submittal*

*Where an Aquifer Protection Permit is required and the proposed use involves hazardous materials or if State or Federal permit, approval or license is required because the use involves hazardous materials including hazardous waste, a Best Management Practice work plan must be submitted that:*

*A. Includes three copies of any required State or Federal permits, approvals or licenses required for the proposed use along with citation of the statute, law, ordinance or regulation requiring these document*

*B. Lists all chemicals, pesticides, petroleum products and other hazardous materials and the maximum quantity to be used, stored, transferred or generated on the premises at anyone time accompanied by a description of measures proposed to protect them from vandalism, corrosion, leakage, malfunction or spill including spill prevention and clean-up procedures and other countermeasures.*

*C. Describes all hazardous or potentially hazardous wastes to be generated and the system to be used that will collect, store, treat (if necessary) and subsequently dispose, off-site, of all waste products other than sanitary sewage. Include spill prevention and clean-up procedures to be used.*

*D. States the proposed measures to mitigate any potential adverse impact from hazardous materials or petroleum products spillage on the groundwater or structures feeding the groundwater.*

*E. Provides a description of the method by which local, state and federal authorities will be notified in the event of an accident or spill of a hazardous material or petroleum product that will have a potentially adverse impact on the environment.*

*F. Shows a plan prepared by the appropriate licensed professional(s) in accordance with*

*R.I.G.L. with the dimensions, elevations and nature of the proposed use; the amount, area and type of proposed fill, area and nature of proposed grading; proposed drainage facilities; proposed roads, water and other utilities; and specifications for building construction and material.*

*G. Shows a plan prepared by the appropriate licensed professional(s) in accordance with R.I.G.L. to include all relevant existing features within two hundred feet of the property line including but not limited to the Primary Protection Zone boundary, wetlands or water bodies, vegetation, existing development and contours at two foot intervals. Off site conditions and features may be taken from existing sources of information and referenced on the plan.*

*H. Includes a soils report by a Professional Soils Scientist registered with the Society of Soils Scientists of Southern New England or a Site Evaluator licensed by the Department of Environmental Management, to include the depth to groundwater and soil strata description to ten (10) feet.*

*I. Includes a report by a groundwater hydrologist on the present surface and groundwater water quality conditions, the rate and direction of groundwater movement and a description of the analysis method used; and the potential impact to ground and surface waters from the proposed use including spills. Such report shall also include the cumulative impacts of discharge pollutants over an extended period of time and a description of mitigation measures to include identification of any irreversible alteration of natural features as a result of the proposed action and the proposed rate and volume of groundwater withdrawal and the potential cumulative impacts of groundwater withdrawal.*

*J. Provides compelling evidence of qualified professional supervision in the design, installation, operation and maintenance of facilities or containers to be used for the handling, storage, generation and disposal of hazardous materials and petroleum products.*

*K. Requires that indoor storage of hazardous materials and petroleum products shall be within a containment structure that meets the following standards:*

*(1) Constructed in such a manner as to prevent the release of hazardous materials and petroleum products and constructed of such materials that are impermeable and compatible to the materials being contained.*

*(2) The containment structure shall, at minimum, be designed to contain the following volumes:*

*(a) For above ground storage tanks greater than 100% of the capacity of the largest tank.*

*(b) For individual containers, e.g., drums greater than 10% of the total volume of all the containers or the volume of the largest container, whichever is greater.*

*L. Requires that outdoor storage of hazardous materials and petroleum products shall be*

*within a containment structure that meets the following standards:*

*(1) Impermeable base and ~surrounding dike that is compatible with the material being contained.*

*(2) The containment structure shall, at minimum, be designed to contain the following volumes:*

*i. For above ground storage tanks ^ 100% of the capacity of the largest tank.*

*ii. For individual containers, e.g., drums ^ 10% of the total volume of all the containers or the volume of the largest container, whichever is greater.*

*(3) The containment structure shall be protected by a roof and adequate sides to prevent entry of precipitation.*

*M. Requires that drums and storage containers be fitted with secure lids at all times to prevent spills and leaks; be stored as full as possible to prevent vapors and the chance of explosion; have drip pans under spigots and that the operator control and absorb material spilled from the tops of the drum.*

*N. Requires storage areas to be inspected weekly looking for leaks and for deterioration caused by corrosion or other factors, recording the inspections in an inspection log and filling out a weekly Hazardous Material Storage Area Inspection Checklist form as set forth in appendix G hereof (said form and the data and/or evidence required thereby are incorporated herein and made a part of this ordinance) during the inspection; keep these records for at least three years from the date of the inspection and make these records available to the Zoning Enforcement Officer. If storage includes hazardous waste for which a weekly Hazardous Waste Storage Area Inspection Checklist form is required to be recorded (refer to Section 2.0 of the Hazardous Waste Compliance Workbook for Rhode Island Generators, RIDEM Office of Technical and Customer Assistance dated March 2002, or the most recent revisions thereto), keep these records as required by RIDEM and make these records available to the Zoning Enforcement Officer.*

*O. Requires containers and tanks to be clearly labeled as to contents.*

*P. Requires hazardous materials generation and storage areas to be clearly marked to indicate the presence of hazardous materials. Material Safety Data Sheets (MSDS) shall be kept for all hazardous materials near the point of generation and storage for ready access by employees, inspectors, etc.*

*Q. Requires venting systems for evaporation or other type of discharge to the atmosphere of hazardous materials to be designed with a recovery system to prevent the release of contaminated condensate or drippage.*

*R. Requires areas used for loading and transferring hazardous materials and petroleum products to have an impermeable surface and a dike to contain spills or leaks.*

*S. Requires a new Aquifer Protection Permit application when additions are proposed to the list of hazardous materials and petroleum products; when changes are proposed to the methods of handling, storage and disposal of hazardous materials and petroleum products; when there is a proposed increase in the maximum quantities of hazardous materials and petroleum products involved; or when there is potential to significantly increase the impact on the groundwater.*

*T. Requires adequate quantity of spill containment materials be maintained on hand, document training in the use and prevention of spills and releases and a written plan of use and disposal for these materials for all potential spills or releases.*

*U. Address fire protection systems needed for flammable or combustible materials stored in these areas, i.e. to prevent catastrophic fire and release of materials resulting from the fire.*

**Section 14. Special conditions.**

In granting a variance or in making any determination upon which it is required to pass after a public hearing under the provisions of this ordinance, the zoning board may apply such special conditions that may, in its opinion, be required to meet the intent and purposes of the Comprehensive Plan of the Town of Hopkinton and this ordinance. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Those special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:

- (1) Minimizing adverse impact of the development upon other land, including the type, intensity, design, and performance of activities;
  - (2) Controlling the sequence of development, including when it must be commenced and completed;
  - (3) Controlling the duration of use of development and the time within which any temporary structure must be removed;
  - (4) Assuring satisfactory installation and maintenance of required public improvements;
  - (5) Designating the exact location and nature of development; and
  - (6) Establishing detailed records by submission of drawings, maps, plats or specifications.
- (Ch. 134, § 12, 12-19-94)