

## **Article I**

### **I Amend the official Town of Hillsborough Zoning Map**

#### **Purpose:**

The purpose of this amendment to the Zoning Map is to correct the designated zoning of Map 10 Lot 38, Map 10 Lot 40, Map 10 Lot 42, and 11B-003 from the Village Residential Zone to the Commercial Zone. This article corrects the discrepancy between the zoning map designation and the actual use of the properties.

#### **Article will read:**

To see if the town will vote to adopt the Zoning Amendment as proposed by the Planning Board to amend the zoning map to change the zoning designation of Map 10 Lot 38 MAP 10 LOT 42 MAP 10 LOT 11B-003 FROM THE Village Residential Zone to the Commercial Zone

### **Article II-Agritourism**

#### **Purpose:**

The purpose of this article is to amend the definition of "Agritourism" as shown in Article II General Provisions section 229-6 Definitions and Word Uses to replace the current definition with a reference to RSA 21:34-a per the 2018 adoption of Senate Bill SB412 which states "No municipality shall adopt an ordinance, bylaw, definition, or policy regarding Agritourism activities that conflicts with the definition of Agritourism in RSA 21:34-a."

#### **Article will read:**

To see if the town will vote to adopt the Zoning Amendment as proposed by the Planning Board to amend the definition of "Agritourism" as stated in Article II General Provisions section 229-6 Definitions and Word Uses and replace the current definition with a reference to RSA 21:34-a

### **Article III-Laundromats and Dry Cleaners**

#### **Purpose:**

The purpose of article is to amend Article II General Provisions section 229-6 Definitions and Word Uses will remove "Laundromats" and "Dry Cleaners" from the definition of "Personal Services", and define them separately. This article will also amend the Table 4 Chart of Uses Commercial Uses to permit Laundromats and Dry Cleaners in the Commercial Zone by right and in the Central Business District by Special Exception.

#### **Article will read:**

To see if the town will vote to adopt the Zoning Amendment as proposed by the Planning Board to amend Article II General Provisions section 229-6 Definitions and Word Uses to remove "Laundromats" and "Dry Cleaners" from the definition of "Personal Services", and define them separately. This article is also to amend the Table 4 Chart of Uses Commercial Uses to permit Laundromats and Dry Cleaners in the Commercial Zone by right and in the Central Business District by Special Exception

#### **Article IV-Groundwater Protection Ordinance**

**Purpose:** The purpose of this article is to adopt amend ARTICLE XVI and adopt a new Groundwater Protection Ordinance and its associated map.

**Article will read:**

To see if the town will vote to amend Article XVI of the Zoning Ordinance to adopt the Groundwater Protection Ordinance with its associated map.

#### **Article V-Historic District Ordinance**

The purpose of this article is to remove the Historic District Ordinance into the Zoning Ordinance as was approved by the voters at Town Meeting 1979.

**Article will read:**

To see if the town will vote to amend the following articles to include the Historic District Ordinance in the Zoning as follows.

Amend Article II General Provisions section 229-6 Definitions and Word Uses to include definition of Certificate of Approval-Historic District,

Amend Article III section 229-23 Use Districts to add the Historic District

Amend Article VI Special Regulations section 229-39, D. Specific Sign Regulations by District by adding number 4. Historic District -sign criteria

Amend Article X Administration and Enforcement, section 229-59 Building Permits to add letter J. Procedure for Approval of Building Permits in the Historic District

Amend Article XV 229-93-229-99 to add the Historic District Ordinance

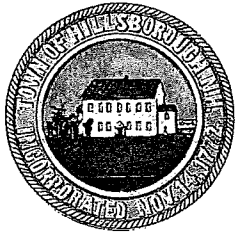
Amend Table 2 Lot, Area, and Frontage Requirements to include the "Historic District"

Amend Table 3 Setback, Coverage and Building Height Requirements to include the "Historic District

Amend Table 4 Chart of Uses by adding the Historic District and the following uses and their permissions:

Bed and Breakfast, Home Occupation, Accessory Building, Home Business, Office, Retail Business, Day Care Facility-Child or Family, Municipal Facility, Museum, Religious Institutions for less than 250 People, Building and Service Trade, Agriculture, Artists Studio, Farm

Amend Chapter 147 of the Town Code to eliminate the verbiage and reserve the chapter.



## TOWN OF HILLSBOROUGH

### Planning Department

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## MEMORANDUM

**TO:** Hillsborough Center Historic District Commission  
**DATE:** 11/28/2018  
**FROM:** Robyn Payson- Planning Director  
**RE:** Historic District Commission Powers/Certificates of Approval

The purpose of this memorandum is to update the Commission on the results of extensive research and consultation with Town Counsel and the New Hampshire Municipal Association regarding the regulatory powers of the Historic District Commission and the circumstances under which they may issue Certificates of Approval.

### History

The Hillsborough Center Historic District was submitted by petition, and adopted at Town Meeting, 1974.

In 1979, Article 2 of the Town Warrant (submitted by the Planning Board and the Historic District Commission jointly) was approved by the voters to amend the "Town Plan" (Zoning Ordinance) to create a new district (not an overlay district) entitled the "Hillsborough Centre Historic District" and setting forth its "purposes" (ordinance).

The Historic District Ordinance should have been added to the zoning ordinance but for whatever reason it was not.

It appears the confusion resulted from the fact the Historic District was approved by petition in 1974, two years before the "Town Plan" which led to the belief that the Historic District Commission was "grandfathered" and therefore had the right to act independently to regulate and develop their own rules and regulations.

The Planning Department was tasked with updating of the Historic District Ordinance with the Historic District Commission.

### Findings

Analysis of the current state statutes reveals the following:

1. Chapter 147 Historic District Rules and their requirements were approved as part of the Zoning Ordinance which is enforced by the Board of Selectmen and the Code Enforcement Officer.

2. RSA 676:10 “Enforcement by Historic District Commission” states that the Historic District Commission shall have “within the bounds of the historic district all of the authority powers and duties prescribed for planning boards insofar as such authority powers and duties are within the intent of the Historic District Commission’s grant of power provided there is:
  - (a) No Zoning Ordinance
  - (b) No Planning Board
  - (c) No building inspector
  - (d) No Zoning Board of Adjustment

Consequently, RSA 676:10 does not grant the Historic District Commission permission to act as a Planning Board and the duties of the Historic District Commission are confined to the issuance of certificates of approval for building permits applied for within the Historic District.

3. RSA 676:8-9 directly address the procedure for issuing approval for building permits.
4. 676:8. Issuing Approval for Building Permits.  
The Historic District Commission **shall review** applications for building permits within the historic district for their impact on the historic district and its objectives by:
  - I. Requesting reports and recommendations regarding the feasibility of the applicant's proposal from the planning board, fire chief, building inspector, health officer and other administrative officials who may possess information concerning the impact of the proposal on the historic district.
  - II. Seeking advice from professional, educational, cultural or other **groups or persons** as may be deemed necessary for the determination of a reasonable decision.
  - III. Filing with the Building Inspector or other duly delegated authority either a certificate of approval or a notice of disapproval following the review and determination of the application.

**Note:** The requirement for soliciting advice from town boards (I) can be satisfied by circulating a “comment” sheet to the Town Departments along with a copy of the application for certificate of approval. The Planning Board uses this method to request comments on planning board applications.

The Commission may consider the New Hampshire Preservation Alliance as a source of additional input (II) should they feel it is appropriate. Our contact Andrew Cushing’s e-mail is [ac@nhpreservation.org](mailto:ac@nhpreservation.org).

5. RSA 674:46-a II states the Historic District Commission may adopt and amend regulations in the manner provided in “RSA 675:6 Method of Adoption”.

6. RSA 675:6 is the statute that pertains to the procedure for adoption or amendment of rules and regulations by all land use boards “as appropriate” we then must refer back to 676:10, which describes the legality of a Historic District Commission to act as a planning board only if no planning board or zoning ordinance exists.

However, the HDC can, and should develop a regulation of design standards that will provide to the public and future commissions guidance on the design of building that would be considered appropriate in the Historic District

In all cases, per RSA 676:46-a IV “All districts and regulations shall be compatible with the master plan and zoning ordinance of the city, town or county in which they exist.”

7. New Hampshire is not a “Home Rule” state; therefore towns have no power other than that which is granted by the state legislature. (See attached document “Home Rule: Do New Hampshire Cities Have It?”)
8. I understand that there are towns in New Hampshire that require certificates of approval for actions other than building permits. I asked that question of Town Counsel and here is his response:

“...just because some other Town does it does not make it right. Given the clear statutory framework, items outside of that framework are not clearly allowed. When in doubt, don’t.” –Atty. Christopher Boldt

### **Conclusion**

After researching and examining the current state statutes governing Historic Districts, consulting with Town Counsel and the NH Municipal Association it is clear that the Historic District Commission is a “quasi judicial body” with binding authority over the review and issuance of Certificates of Approval for Building Permits in the Historic District.

I understand there is a lot of concern about the Historic District Commission losing “control” for the best possible reason; to protect the beautiful historic center. However, it is important to remember that “control” only extends to certificates of approval for building permits and does not, nor has it ever legally extended to any other action.

There is no question that the Historic District is a valuable asset to the Town. Therefore the next step for the Historic District Commission is to set up design guidelines to aid in the certificate of approval process to give applicants and the HDC specific criteria to point to when reviewing an application. I am including in this e-mail a document brought forward addressing “Best Management Practices” by the National Alliance of Preservation Commissions.

The Planning Board will be including the proposed Historic District Ordinance in their discussion about zoning amendments for the upcoming Town Meeting at their next meeting on December 5<sup>th</sup> at 7:00 pm at the Town Offices.

1979

**State of New Hampshire  
TOWN WARRANT**

*To the Inhabitants of the Town of Hillsborough, County of Hillsborough in said State, qualified to vote in Town Meetings:*

You are hereby notified to meet in Hillsboro-Deering High School Auditorium in said Town on Tuesday, the thirteenth day of March, next, at ten o'clock in the forenoon. Election of officers and balloting on Articles will take place between ten o'clock in the forenoon and six o'clock in the afternoon. Articles seven through forty-two will be taken up at 7:30 p.m.

Article 1. To choose one Selectman for three years; Town Treasurer, Tax Collector, Town Clerk for one year; Trustee of the Fuller Library for three years; Trustee of Trust Funds for three years; Water Commissioner for three years; and all other necessary Town Officers or agents for the ensuing year.

Article 2. To see if the Town will vote to adopt Amendments No. 1 and No. 2 as proposed by the Planning Board and Hillsborough Centre Historic District Commission for the Hillsborough Town Plan (Zoning Ordinance) as follows: Amendment creating a new District entitled the Hillsborough Centre Historic District and setting forth its purposes. Vote by Ballot.

Article 3. To see if the Town will vote to adopt Amendments No. 3 and No. 4 as proposed by the Planning Board of Hillsborough and Hillsborough Centre Historic District Commission for the Hillsborough Town Plan (Zoning Ordinance) as follows: Amendment setting forth the proposed Regulations for the administration of the District known as the Hillsborough Centre Historic District, sometimes known as the Hillsborough Centre Historic District Ordinance. Vote by Ballot.

Article 4. To see if the Town will vote to adopt Amendment No. 5 as proposed by the Planning Board of Hillsborough for the Hillsborough Town Plan (Zoning Ordinance) as follows: Amendment to change the name of the Hillsborough Town Plan from "Town Plan" to "Hillsborough Zoning Ordinance", and to ratify and affirm the adoption of said ordinance. Vote by Ballot.

Article 5. To see if the Town will vote to adopt Amendment No. 6 as proposed by the Planning Board of Hillsborough and Hillsborough Centre Historic District Commission for the Hillsborough Town Plan (Zoning Ordinance) as follows: Amendment which corrects the physical boundaries of the Hillsborough Centre Historic District to conform with a surveyor's description. Vote by Ballot.

his assistant, Scott Gerini had gathered all of our plow blades at the Landfill. They were pounded into shape, welded, sand blasted and painted and made ready for the winter work. As a result of this project combined with substantial knowledge of equipment and a strong family history in road work we appointed Billy Goss as Highway Foreman. Shortly thereafter Greg LaRoche was appointed Superintendent of Public Works. We immediately embarked on a plan to restore all Town vehicles to top operating condition. A regular maintenance program was set up and is rigidly adhered to. Many minor repairs which were formerly sent out are being done by our own men. Better preventive maintenance has resulted in fewer equipment failures and less money being spent for rental plowing. Some of the vehicles have been painted and the overall appearance has greatly improved. We will pursue this program with vigor since we feel that this is what the taxpayers have a right to expect. At this writing we have endured a very difficult winter with much snow and heavy rain. The overall comments from the townspeople seems to be satisfactory and the Highway Department has received more compliments than complaints. In view of our efforts in this direction we are again asking for new equipment and request that you give it your serious consideration at Town Meeting.

At this time we wish to point out that although we incurred a deficit of about forty thousand dollars in the Public Works Departments we have tried to be as frugal as possible with the taxpayers money. Our overall deficit is approximately eight thousand dollars. While this is not entirely satisfactory to us it is not wholly unsatisfactory in these days of galloping inflation and unexpected occurrences. The anticipation of expenditures in advance when dealing with intangibles such as the weather is never precise. It is unfortunate that other levels of government in this country are much further removed from reality than is our Town budget. We fully expect to have a balanced budget for the year 1979.

Respectfully submitted,  
RUSSELL S. GALPIN  
ROBERT W. CASTELLO  
JOSEPH M. EATON, JR.  
SELECTMEN OF HILLSBOROUGH, N.H.

1974

Hampshire RSA 253:17 and 253:18. By Petition.

Article 30. To see if the Town will vote to designate approximately one and three-tenths (1.3) miles of Danforth Corners Road (commonly called Bucklin Road) from Coolidge Road to Center Road as a Scenic Road under the Scenic Roads Law as specified in Chapter 586, New Hampshire RSA 253:17 and 253:18. By Petition.

Article 31. To see if the Town will vote to establish a historic district pursuant to the authority of Revised Statutes Annotated, Chapter 31, Section 89-a, said district to be described as follows: The area known as Hillsborough Center, comprised of a group of old residences facing a triangular road; said district to extend 1,000 feet out along the roads that lead to the "Center" from the South, North-east and Northwest. And, further, in order to carry out the purpose of this district, that a Historic District Commission be appointed to consist of five (5) members, one of which shall be a representative of the Board of Selectmen, one of which a representative of the Planning Board, and three members appointed by the Selectmen. At least two of the three members at large shall be residents of the district, and the three members at large shall serve for three-year terms on a staggered basis. The Commission shall function in accordance with the provisions of Section 89 of New Hampshire RSA, Chapter 31. Or to take any other action in relation thereto. By Petition.

Article 32. To see if the Town will vote to authorize the Selectmen to apply, negotiate and do all other things necessary to obtain such Federal, State, or other assistance as may be available for the report for, design of, and construction of a sewage disposal system, and pass any vote relating thereto. Sponsored by the Selectmen.

Article 33. To see if the Town will vote to raise and appropriate a sum of Fifteen Thousand Dollars (\$15,000.00) for the purpose of preparing a facilities plan on sewerage and sewage treatment facilities which are requirements contained in the Federal Water Pollution Control Act, as amended (33 U.S.C.Par.1251 et seq., 6 Stat.Par 16 et seq.) and will qualify the Town for Federal funds, such sum to be raised by the issuance of Serial Bonds or Notes not to exceed Fifteen Thousand Dollars (\$15,000.00) under and in compliance with the provisions of the Municipal Finance Act (N.H.R.S.A.33.1 et seq., as amended) and to authorize the Selectmen to issue and negotiate such bonds or notes and to determine the rate of interest thereon, and to take such other actions as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes, shall be in the best interests of the Town of Hillsborough, and to allow the Selectmen to expend such monies as be-

come available from the Federal Government under the Financial Assistance Program of the Construction Grants section of the Federal Water Pollution Control Act, as amended (33 U.S.C.Par.1251 et seq., 6 Stat.Par 16 et seq.) and pass any vote relating thereto. Sponsored by the Selectmen.

Article 34. To see if the Town will vote to raise and appropriate the sum of Fifteen Hundred, Thirty Dollars (\$1,530.00) for membership in the Monadnock Region Association, or take any other action relating thereto. Sponsored by the Selectmen

Article 35. To see if the Town will vote to ratify the action of the Selectmen in entering into contractual agreements with the Towns of Deering and Windsor for the use of the Hillsborough Sanitary Landfill and in adopting rules and regulations governing its use, or to take any other action relating thereto. Sponsored by the Selectmen.

Article 36. To transact any other business that may legally come before said meeting.

Given under our hands this third day of February in the year of our Lord, Nineteen Hundred and Seventy-Five.

LAWRENCE O. FISHER  
RUSSELL S. GALPIN  
WALTER H. TAPF  
SELECTMEN OF HILLSBOROUGH, N.H.

A true copy of Warrant — Attest:  
LAWRENCE O. FISHER  
RUSSELL S. GALPIN  
WALTER H. TAPF  
SELECTMEN OF HILLSBOROUGH, N.H.



#### NEW HAMPSHIRE DIVISION OF HISTORICAL RESOURCES

State of New Hampshire, Department of Cultural Resources 603-271-3483  
19 Pillsbury Street, P. O. Box 2043, Concord NH 03302-2043 603-271-3558  
Voice/TTY RELAY ACCESS 1-800-735-2964 FAX 603-271-3433  
<http://www.state.nh.us/dohtr> [preservation@nhdivhr.state.nh.us](mailto:preservation@nhdivhr.state.nh.us)

## HISTORIC DISTRICT COMMISSION BEST PRACTICES

*From the National Alliance of Preservation Commissions*

People are often surprised to learn that their local Historic District Commission is an arm of their local government; that it is a quasi-judicial body with binding authority, just like the Planning Board and Zoning Board of Adjustment. Its members are public servants, just like other boards, and it must follow the same rules of procedure, public notice, ethics, meeting conduct, conflict of interest, and record keeping as the town council. How the Historic District Commission operates is critically important, because it deals with personal property in a way that other Boards and Commissions don't. Effective and sound Historic District Commission operation is a dynamic, ongoing process, constantly improving as it responds to community needs and evolving preservation practice. The following discusses six aspects of commission operation and provides best practice techniques to help your commission be highly-functioning. The time invested in constantly checking to ensure that the commission is following the best practices possible pays-off in headaches avoided and public support gained.

### THE PUBLIC

How do property owners discover the commission and what will be their first impression?

- Send friendly welcome letters to new property owners telling them about the commission and its work. Include a boundary map and a simple brochure outlining what type of work is and is not reviewed by the commission. Let them know where they can get copies of applications and other materials.
- Make the Certificate of Appropriateness easy to read and complete. Avoid jargon and, where appropriate, use illustrations to make it as user-friendly as possible. Include a checklist of required application materials and steps.
- Commission staff and members should be willing and available to help property owners understand the application, review process, and standards and guidelines. Some commissions have publicly-noticed "working sessions" for applicants either before regularly scheduled meetings or at other designated times.

### THE POLICY

Are your policies clearly communicated and updated when necessary?

- Periodically review your ordinance to ensure that you are familiar with its provisions and are following them. A periodic review will also help identify any deficiencies that need to be corrected.
- Guidelines only go so far. Ultimately, *The Secretary of the Interior's Standards* are the baseline criteria against which most commissions measure their work. Don't be afraid to refer to them and cite them when rendering decisions.
- Design guidelines should be based upon the local community and preservation objectives, and should fit the district's composition and character. One size does not fit all. For example, if a district doesn't have any commercial buildings, a section on signage and storefronts would be superfluous and confusing; or if the community's preservation goal is maintenance of a certain streetscape rhythm, the guidelines should provide ample information about size, scale, massing, setbacks, spacing, etc.
- A simple but professional brochure explaining what work the commission does and does not review can help to educate the public and dispel misinformation. Be sure to include the general review criteria used as well as an overview of the review process and where to get more information. Make the brochure available at town hall, the planning office and building permit counter, real estate offices, and the library.
- As you identify guidelines gaps and gaffs, take the necessary steps to correct them. Correcting an ineffective and unclear policy when the problem is first identified will prevent future problems.

### THE PROCEDURE

What is your conduct before, during, and after the meeting?

- Be aware of the minimum public meeting posting requirements and try to do more. Consider additional notice measures like yard signs, posting in multiple places, and online notice.



- Be prepared! Review application packets before the meeting to become familiar with the applications so that there is no struggle to understand the project or keep up during deliberations, and more importantly to ensure that your decision is an informed one.
- Take the time for a site visit. Photographs are informative but do not tell the whole story. Check it out in person.
- The meeting should always start on an upbeat, positive, and professional tone. The chair should always acknowledge all commissioners and staff by name and use place cards so the audience can know who is speaking during deliberations. Remember that for many, your meeting will be the first and only interface residents have with the inner-functioning and management of their community – make it as professional as possible.
- Try to remember when it is the applicant's first time at the table. Be patient with new commissioners and applicants and help them understand the process.
- Produce accurate minutes and adopt them at every meeting. Accurate and timely minutes help keep a commission's work on track. After adoption, make the minutes publicly available. If the commission is doing its job according to the rules, minutes can be an effective public relations tool.

### THE PRACTICE

Is everyone at the table making the effort?

- In addition to a basic training and orientation session for new commission members, everyone should attend an annual training event. Look for sessions at the New Hampshire Preservation Alliance Spring Conference, the Office of Energy and Planning Annual Conference, the National Alliance of Preservation Commission Conference, as well as regional workshops and lectures.
- Join a listserv devoted to Historic District Commission issues. Both the National Alliance of Preservation Commissions and the New Hampshire Division of Historical Resources maintain such listserves.
- Create commissioner notebooks for all commission members. Notebooks should contain, at a minimum, the ordinance, rules of procedure, regulations, design guidelines, map of the district, and any other information the commission distributes, such as brochures and handouts.
- Consider a consent agenda and administrative review, if feasible or warranted. If a commission has staff, identify work that can be approved at the administrative level and include a list of that work in the guidelines. If a commission does not have staff, consider designating several commissioners as "Expediting Commissioners" who can give administrative approval for a limited range of work. It is advisable to require approval by more than expediting commissioner to receive a Certificate of Appropriateness.
- Consider visiting other commissions' meetings and inviting other commissions to yours.
- Review and reflect upon your work at the end of every year, and take the time to review the commission's operation and decisions. Take photos of completed projects and create a "before and after" slide show, allowing you to identify areas where improvements can be made as well as to acknowledge where a good job was done.

### THE POLITICS

Are you soliciting support from the local leadership?

- Use an annual report to inform elected officials of how many applications the commission approved and how many were denied. Chances are the officials won't hear about the approvals unless the commission tells them. Send the report to the local media along with a brief press release.
- Consider periodic joint meetings with the other land use boards and elected officials to keep everyone informed and aware of the commission's work and needs.
- Look for ways to involve the commission in as many aspects of local government as possible, including representation on other boards, such as the Planning Board, as well as participation in civic activities.

### THE PERCEPTION

Are you recognizing the good preservation work of others?

- Don't forget about positive reinforcement! Look for ways to recognize good preservation work in the community -- not just the large-scale projects, but the small ones as well. Consider starting a joint awards program with the local preservation non-profit organization or participating in programs already in place.
- If local incentives exist, such as a façade grant program or certified local government program, make sure people know about it. Let people know about the Federal Rehabilitation Tax Credit Program.
- A commission doing its job well and consistently following the rules is its best defense against accusations of being arbitrary and capricious.