

**2024 Annual Town Meeting Warrant
Select Board
Town of Hatfield
Commonwealth of Massachusetts**

Hampshire, ss.

To either the Police Chief or Town Clerk for the Town of Hatfield in said Hampshire County.

Greetings:

In the name of the Commonwealth, you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and Town affairs to meet in Smith Academy Gymnasium, 34 School Street, in said Hatfield on

TUESDAY, THE 14th DAY OF MAY 2024

at 7:00 pm in the evening to take action on all articles except Article 1 and to meet on Tuesday the 21st day of May, 2024 in Memorial Town Hall at seven o'clock in the forenoon, then and there to take action under Article 1.

ANNUAL TOWN ELECTIONS

ARTICLE 1 ELECTIONS

Submitted by Town Clerk

To choose all necessary Town Officers for the following years: one member of the Select Board for a term of three years; one Assessor for a term of three years; two members of the School Committee for a term of three years; one Library Trustee for a term of three years; one Library Trustee for a term of two years; two members of the Planning Board for a term of five years each; one Elector under the Will of Oliver Smith for a term of one year; one Cemetery Commissioner for a term of three years; one member of the Board of Health for a term of three years; two members of the Redevelopment Authority, one for a term of five years and the other for a term of three years.

The polls will be open at seven o'clock in the forenoon on Tuesday, May 21, 2024, and kept open until eight o'clock in the evening.

BALLOT QUESTION 1:

Shall the Town of Hatfield be allowed to assess an additional \$66,000 in real estate and personal property taxes for the purpose of funding personnel in the Fire / Ambulance Department, for the fiscal year beginning July 1, 2024?

Yes _____ No _____

GENERAL TOWN ARTICLES

ARTICLE 2 *(Majority vote)*

Submitted by: Select Board

To see if the Town will vote to authorize the Select Board to apply for, accept, and expend without further appropriation any State or Federal grants, gifts and awards from any public or private source that become available in Fiscal Year 2024, or take any other action relative thereto.

ARTICLE 3 *(Majority vote)*

Submitted by: Town Treasurer

To see if the Town will vote to authorize its Treasurer, subject to the approval of the Select Board, to enter into a compensating balance agreement or agreements for Fiscal Year 2025 pursuant to Chapter 44, Section 53F of the General Laws, or take any other action relative thereto.

ARTICLE 4 *(Majority vote)*

Submitted by: Select Board

To see if the Town will vote to authorize the Select Board to enter into a Memorandum of Agreement with the Massachusetts Department of Public Works under G.L. c. 90 concerning the use of funds made available through the state's Transportation Bond Issue; or take any other action relative thereto.

ARTICLE 5 *(Majority Vote)*

Submitted by: Select Board / Finance Committee

To see if the Town will vote to raise and appropriate, appropriate by transfer, or otherwise provide a sum of money, to supplement the Fiscal Year 2024 Snow and Ice Budget for unforeseen expenses, and to meet said appropriation from taxation and/or other available funds; or take any other action relative thereto.

ARTICLE 6 *(Majority Vote)*

Submitted by: Select Board / Finance Committee

To see if the Town will vote to raise and appropriate, appropriate by transfer, or otherwise provide a sum of money to fund a deficit in the Vocational Tuition and Transportation FY2024 Budget, and to meet said appropriation from taxation and/or other available funds; or take any other action relative thereto.

ARTICLE 7 (*Majority Vote*)

Submitted by: Select Board / Finance Committee

To see if the Town will vote to authorize the Select Board to enter into a five (5) year lease agreement for a photocopier in Memorial Town Hall, beginning July 1, 2024; or take any other action relative thereto.

ARTICLE 8 (*Majority Vote*)

Submitted by: Select Board / Finance Committee

To see if the Town will vote to authorize the Select Board to enter into a five (5) year lease agreement for a postage meter in Memorial Town Hall, beginning July 1, 2024; or take any other action relative thereto.

ARTICLE 9 (*2/3 Vote*)

Submitted by School Committee / Select Board

To see if the Town will vote to authorize the Select Board, with the approval of the School Committee, to lease all or a portion of the roof of Hatfield Elementary School located at 33 Main Street for a term of years, upon such terms and conditions as are acceptable to the Select Board, to a solar energy provider for the purposes of constructing, maintaining, and operating a solar facility on the property and to enter into a power purchase agreement with the solar energy provider; and further, to authorize the Select Board and/or the School Committee to grant an easement to Eversource to install, maintain, operate, repair, reinstall, or replace any utilities required for interconnection to the solar facility project; or take any other action relative thereto.

FISCAL YEAR 2025 OPERATING BUDGET AND REVOLVING FUND

ARTICLE 10 (*Majority Vote*)

Submitted by: Select Board/Finance Committee

To see if the Town will vote to act on the Fiscal Year 2025 budget and to raise and appropriate, or appropriate by transfer from the Cable TV Enterprise Fund, Water and Sewer Enterprise Fund, Ambulance Revenue Fund, Ambulance Surplus Fund, School Choice Fund, Cemetery Perpetual Care Interest Fund, Overlay Surplus Fund, Free Cash, Water and Sewer Retained Earnings Fund, Cable TV Retained Earnings Fund and Bond Premium Fund, and other available funds, a sum of money to fund the operation of the Town's departments and all other necessary and proper expenses, and to defray the charges and expenses of the Town, including debt and interest, to set the salaries of all elected officials in accordance with the provisions of Chapter 41, Section 108 of the General Laws of the Commonwealth, and to provide a Reserve Fund for the ensuing year, or take any other action relative thereto.

ARTICLE 11 (*Majority Vote*)
 Submitted by: Select Board/Finance Committee

To see if the Town will vote to raise and appropriate a sum of money for the purpose of funding personnel in the Fire / Ambulance Department, and to determine whether to make such appropriation contingent upon passage of a Proposition 2 ½ ballot question under General Laws Chapter 59, § 21C ; or take any other action relative thereto.

REVOLVING FUNDS

ARTICLE 12 (*Majority vote*)
 Submitted by: Select Board

To see if the Town will vote to set the spending limits for the revolving funds, under Massachusetts General Laws Chapter 44, §53 E ½, for the fiscal year beginning July 1, 2024 as follows:

REVOLVING FUND	AUTHORIZED TO SPEND FUND	REVENUE SOURCE	USE OF FUND	FY 2025 SPENDING LIMIT
Community Garden	Agriculture Advisory Commission	Plot Fees	Expenditures for Maintenance	\$5,000.00
DPW Motor Grader	DPW Director	Rental Fees	Maintenance and Salaries	\$5,000.00
Hazardous Materials	Fire Chief	Departmental Receipts	Expenditures Regarding Hazardous Materials	\$20,000.00
Tax Title	Treasurer	Departmental Receipts	Expenditures Regarding Tax Title	\$25,000.00
Celebration Fund	Celebration Committee	Town Celebration Events	Expenditures for Events	\$50,000.00
TOTAL SPENDING AUTHORIZED				
\$105,000.00				

or take any other action relative thereto.

CAPITAL IMPROVEMENT PLANNING PROJECTS

ARTICLE 13 (*Majority Vote*)

Submitted by: Select Board

To see if the Town will vote to raise and appropriate, appropriate by transfer or otherwise provide a sum of money for a Cable/TV Controls Studio and Multi-media Conference Room on the Second Floor in Memorial Town Hall; or take any other action relative thereto.

ARTICLE 14 (*2/3 Vote*)

Submitted by Select Board

To see if the Town will vote to raise and appropriate, appropriate by transfer, or otherwise provide a sum of money not to exceed \$1,400,000 for the purpose of supplementing the Wastewater Treatment Plan Upgrades Project; and to determine whether to do so by raising and appropriating some or all of said amount from tax levy, by transferring funds from existing accounts, and/or by authorizing the Treasurer, with the approval of the Select Board, to borrow under G.L. c.44, §7, or any other enabling authority; or take any other action relative there to.

ARTICLE 15 (*2/3 Vote*)

Submitted by Select Board

To see if the Town will vote to raise and appropriate, appropriate by transfer or otherwise provide a sum of money not to exceed \$226,405, for the purpose of funding the FY2025 Sewer Asset Management Planning Project and to determine whether to do so by raising and appropriating some or all of said amount from tax levy, by transferring funds from existing accounts, and/or by authorizing the Treasurer, with the approval of the Select Board, to borrow under G.L. c. 44, §7; provided that the appropriation shall be contingent upon a \$135,843 Massachusetts Department of Environmental Protection Grant award; or take any other action relative there to.

ARTICLE 16 (*2/3 Vote*)

Submitted by Select Board

To see if the Town will vote to raise and appropriate, appropriate by transfer or otherwise provide a sum of money not to exceed \$227,765.00, for the purpose of funding the FY2025 Stormwater Asset Management Plan, Phase 1 Project and to determine whether to do so by raising and appropriating some or all of said amount from tax levy, by transferring funds from existing accounts, and/or by authorizing the Treasurer, with the approval of the Select Board, to borrow under G.L. c. 44, §7; provided that the appropriation shall be contingent upon a \$136,659.00 Massachusetts Department of Environmental Protection Grant award; or take any other action relative there to.

ARTICLE 17 (2/3 Vote)
Submitted by Select Board

To see if the Town will vote to raise and appropriate, appropriate by transfer or otherwise provide a sum of money not to exceed \$171,288 for the purpose of funding the FY2025 Drinking Water Asset Management Plan Project and to determine whether to do so by raising and appropriating some or all of said amount from tax levy, by transferring funds from existing accounts, and/or by authorizing the Treasurer, with the approval of the Select Board, to borrow under G.L. c. 44, §7; provided that the appropriation shall be contingent upon a \$102,773 Massachusetts Department of Environmental Protection Grant award; or take any other action relative there to.

COMMUNITY PRESERVATION ARTICLES

ARTICLE 18 (Majority Vote)
Submitted by: Community Preservation Committee

To see if the Town will vote to appropriate or reserve from the Community Preservation annual revenues in the amounts recommended by the Community Preservation Committee for committee administrative expenses, community preservation projects and other expenses in fiscal year 2025, with each item to be considered a separate appropriation:

Appropriations:

From FY 2025 estimated revenues for Committee Administrative Expenses \$8,500

Reserves:

From FY 2025 estimated revenues for Historic Resources Reserve	\$ 38,860
From FY 2025 estimated revenues for Community Housing Reserve	\$ 38,860
From FY 2025 estimated revenues for Open Space Reserve	\$ 38,860
From FY 2025 estimated revenues for Budgeted Reserve	\$263,175

or take any other action relative thereto.

ARTICLE 19 (Majority Vote)
Submitted by: Community Preservation Committee

To see if the Town will vote to appropriate by transfer from the Community Preservation Historic Resources Reserve account, upon the recommendation of the Community Preservation Committee, the sum of up to \$7,000 to preserve, restore, or replace historic headstones in Hill Cemetery under the guidance of the Hatfield Cemetery and Historical Commissions, said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereto.

ARTICLE 20 (*Majority Vote*)

Submitted by: Community Preservation Committee

To see if the Town will vote to appropriate by transfer from the Community Preservation Budgeted Reserve account, upon the recommendation of the Community Preservation Committee, the sum of \$29,825 to preserve and restore the façade, belfry, and clock enclosures of the historic Town-owned clock located in the First Congregational Church Steeple, said funds to be expended under the direction of the Community Preservation Committee; or take any other action relative thereto.

ARTICLE 21 (*Majority Vote*)

Submitted by: Community Preservation Committee

To see if the Town will vote to appropriate by transfer from the Community Preservation Budgeted Reserve account, upon the recommendation of the Community Preservation Committee, the sum of \$196,980 for rehabilitating and restoring for recreation, education, and open space purposes, the Town-owned Day Pond located at Smith Academy, 34 School Street under the multiple departmental guidance of the Select Board, School Department, Recreation Department, Open Space Committee, and Department of Public Works, said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereto.

ARTICLE 22 (*Majority Vote*)

Submitted by: Community Preservation Committee

To see if the Town will vote to appropriate by transfer from the Budgeted Reserve account, upon the recommendation of the Community Preservation Committee, the sum of \$185,898 to document, assess condition, clean, move, restore, and prepare a summary of the Cutter Farm Museum contents, including digitizing into a state-of-the art searchable database the contents of the Farm Museum; and to create a long term conservation plan for Farm Museum items, to identify needed repairs, structural upgrades, weatherization, and conservation including identifying grants to protect the building and its contents in the future, under the guidance of the Hatfield Historical Society, said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereto.

ARTICLE 23 (*Majority Vote*)

Submitted by: Community Preservation Committee

To see if the Town will vote to appropriate by transfer the sum of \$12,500 from the Community Preservation Open Space Reserve account and the sum of \$12,500 from the Budgeted Reserve account, upon the recommendation of the Community Preservation Committee, to create a Historic Walking Tour of significant homes, locations, and events along, Main Street, Maple Street, Elm Street, Prospect Street, and School Street, including the purchase of 12-15 bronze plaques with descriptions of historical events, important people, and significant locations as they relate to Hatfield's history, under the guidance of the Hatfield Historical Commission, said funds to be expended under the direction of the Community Preservation Committee; or take any other action thereto.

HOME RULE PETITION

ARTICLE 24 (*Majority Vote*)

Submitted by: Select Board

To see if the Town will vote to authorize the Select Board to file a petition with the General Court to obtain special legislation in substantially the following form:

AN ACT RELATIVE TO THE TOWN OF HATFIELD TO PERMIT THE USE OF GOLF CARTS ON THE PUBLIC WAYS OF THE TOWN

Be it enacted by the Senate and House of Representatives in the General Court assembled and by the authority of the same, as follows:

- SECTION 1. Notwithstanding any other general or special law to the contrary, golf carts may be driven on the public ways of the town of Hatfield, subject to the restrictions set forth herein and in any bylaw passed by the town. For the purposes of this act, the public way shall not include sidewalks.
- SECTION 2. No person shall operate a golf cart on any public way without first registering the vehicle with the town clerk and affixing a registration decal provided by the town clerk to the rear right fender of the vehicle. The town clerk shall not register any golf cart without proof that the vehicle is insured and unless it has first passed a safety inspection administered by the chief of police or his designee. The town may charge a reasonable fee for such inspection and registration which shall be set in a bylaw.
- SECTION 3. No person shall operate a golf cart on any public way without a valid driver's license, except that a driver with a valid learner's permit may operate a golf cart with a licensed driver sitting immediately adjacent to the permit holder.
- SECTION 4. No person shall operate a golf cart on a public way if any component of the vehicle has been modified from the original manufacturer's equipment in such a way as to enhance its speed. Without limitation, such modifications include the removal of the governor, and/or replacing the engine and power train with a larger one.
- SECTION 5. No person shall operate a golf cart on a public way at a speed in excess of 20 miles per hour. No person shall operate a golf cart on any way where the speed limit exceeds 40 miles per hour, including any state highway.
- SECTION 6. No person shall consume alcohol while operating a golf cart on any public way and no driver or passenger shall have an open container of alcohol within the golf cart while it is being operated.

- SECTION 7. No person shall operate a golf cart on a public way between one-half hour after sunset and one-half hour before sunrise except where the select board has given permission to exceed this restriction for special events.
- SECTION 8. Golf carts operating on public ways must stay to the right whenever possible and not impede the regular flow of traffic.
- SECTION 9. All drivers and passengers must wear seat belts when a golf cart is operated on a public way.
- SECTION 10. The town of Hatfield may adopt a bylaw setting fines for violations of this act, provided that nothing herein shall prohibit any law enforcement officer from acting within the scope of his duties by enforcing any traffic law or regulation using a uniform traffic citation and applying the penalties therein.
- SECTION 11. This act shall take effect upon its passage.

such petition to include such other or additional provisions as the Select Board deems appropriate, provided that the General Court may make clerical or editorial changes of form only to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court, the Select Board being hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition; or to take any other action in relation thereto.

ZONING BY-LAWS

ARTICLE 25 (2/3 Vote)
Submitted by: Planning Board

To see if the town will vote to amend the Town of Hatfield Zoning By-Laws, Section 6.2 Open Space Development and all related sub-sections of the Hatfield Zoning By-Laws, so that it reads as follows (the proposed additional text is underlined; deleted text is ~~stricken~~):

6.2 OPEN SPACE DEVELOPMENT

6.2.1 Open Space Development allowed by right

Open Space Development (OSD) in accordance with this bylaw shall be encouraged within the town and shall be allowed by right in the Rural Residential District (RR), Outlying

Residential District (OR), Town Center District (TC), and Agricultural District (AG), not including those lands in Hatfield's Floodplain District (FP). Open Space Development shall mean a residential development in which residences are clustered together, adjacent to permanently preserved open space.

6.2.2 PURPOSES

The purposes of Open Space Development are to:

1. Allow for greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of the development is no greater than what is normally allowed in the district;
2. Encourage the permanent preservation of open space, agricultural lands, forest lands and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources;
3. Encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features;
4. Maintain the traditional New England rural character and land use patterns in which small villages contrast with open space and farmlands;
5. Facilitate the construction of streets, utilities and public services in a more economical and efficient manner;
6. Ensure that residential developments are designed to minimize impacts on the natural features of the land, including wetlands, watercourses, forests, ~~prime~~ agricultural land, agricultural soils, steep slopes, plants, wildlife, historic sites, scenic areas and views, and rural character;
7. ~~encourage development out of view from the road~~ Promote alternatives to strip residential development lining roadsides in the town;
8. Provide wildlife corridors and protect large blocks of unfragmented habitat connecting open spaces, needed by wildlife to ensure their survival;
9. Further the goals and policies of the Hatfield Master Plan and Open Space and Recreation Plan;
10. Enable landowners to realize equity from development of a small percentage of their land while current uses continue on the majority of the property;
11. Reduce energy consumption and greenhouse gas emissions;
12. Minimize the total amount of disturbance on the site, and promote the incorporation of Low Impact Development and Green Infrastructure into development designs.

6.2.3 DEFINITIONS

Agricultural Soils: Agricultural land with soils designated as prime or of statewide or local significance by the Natural Resources Conservation Service (NRCS) soil surveys.

Basic Maximum Number: The number of units that would be allowed on a site using standard Zoning Bylaw Provisions and/or Subdivisions Rules and Regulations as determined by a Yield Plan.

Common Area: Any land area, other than Open Space, set aside for common ownership as a result of an OSD, including areas for Common Facilities.

Common Driveway: Vehicular access, which is not a street, but extending from a street, serving as a common vehicular access to more than one (1) but not more than three (3) residential lots built in accordance with the standards set forth in this bylaw and those standards set forth in the Town of Hatfield Zoning Bylaws Section 5.8. The driveway will lie entirely within the lots being served.

Common Facilities: Built facilities which are commonly owned by the property owners within an OSD. Common Facilities may be proposed but are not required. They may include streets, rights of way, common buildings, wells, water and waste treatment systems, and recreation facilities.

Conventional Lot: A lot in a standard subdivision based upon the minimum dimensional requirements of the underlying zoning district in which the subject property lies, and the minimum requirements of the Subdivision Regulations.

Conventional Plan: A plan showing the division of property into lots based upon the minimum requirements of the underlying zoning district in which the subject property lies, and the minimum requirements of the Subdivision Regulations.

Existing Resources/Site Analysis Map: A map which identifies, locates, and describes noteworthy features to be designed around through sensitive layouts, such as vegetation, wetlands, steep slopes, farmland soils, historic or cultural features, threatened or endangered species, unusual geological formations, and scenic views of viewsheds.

Homeowners' Association: A private non-profit organization (corporation, association, or other legal entity) established by the developer to manage, maintain, support, and finance the common facilities and common open space of an OSD, and to enforce certain covenants and restrictions.

Open Space: Undeveloped land set aside for common or individual ownership as a result of an OSD, with conservation easements and other deeded restrictions to ensure that the land will remain permanently open and undeveloped. A condition of OSD approval is that open space may not be further subdivided.

Open Space Development: A form of residential development where the density of the dwelling units is no greater than would be permitted in the district in where the OSD is located, but where the lot size and other dimensional standards may be reduced in exchange for the preservation of permanently protected open space, recreational land, forests, or other farmland.

Title V Regulations: 310 CMR 15.000

Wetlands: Areas characterized by vegetation described in Massachusetts General Laws, Chapter 131, Section 40.

Yield Plan: A conceptual plan showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by the Title V regulations, 310 CMR 15.000, as well as the Town of Hatfield Board of Health regulations. For purposes of determining the number of OSD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a by-right dwelling unit as defined in the zoning district in which the OSD is located and meet all other applicable requirements of the Zoning Bylaw and Subdivision Regulations.

6.2.4. APPLICABILITY

1. Any applicant applying for a residential subdivision creating 3 or more lots or a residential development creating 3 or more dwelling units in the Town of Hatfield is encouraged to apply for an OSD under this bylaw.
2. Segmentation. In determining whether a project is applicable under this bylaw, the developer and the Planning Board shall consider the entirety of the development, including:
 - a. any likely future expansion of the project on the subject property or on any property which is contiguous to the subject property or under related ownership, or
 - b. any past, related development on any property which is contiguous to the subject property or any property that was under related ownership with the subject property at the time that this bylaw was adopted.
3. Uses Permitted in the Developed Area of an OSD. Uses permitted in the developed area of an OSD include those that are allowed by-right in the underlying zoning district in which the subdivision or development is proposed.
4. Uses Permitted in the Open Space of an OSD. Uses permitted in the open space of an OSD include:
 - a. agricultural uses including horticultural, raising of crops, livestock, poultry, nurseries, orchards, hay, and buildings related to the same;
 - b. public park or recreation area;
 - c. woodlots, arboreta, and other similar silvicultural uses;
 - d. woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use;
 - e. accessory uses customarily incidental to any permitted use, such as gazebos, cabanas, pedestrian walks or bicycle paths, etc.,
5. Uses Prohibited in the Open Space of an OSD. The open space within an OSD shall be perpetually kept in an open state, preserved exclusively for the purposes set forth in the Uses Permitted in the Open Space of an OSD section of this bylaw, and

maintained in a manner that will ensure its suitability for its intended purposes. The following uses are expressly prohibited except in conformance with an allowed use:

- a. commercial or recreational cultivation of cannabis;
 - b. constructing or placing of any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, above, or under the open space that is not in conformance with an authorized use of the open space (e.g. a barn or other structure associated with agriculture);
 - c. mining, excavating, dredging, or removing soil, loam, peat, rock, gravel or other mineral resource or natural deposit;
 - d. placing, filling, storing, or dumping of soil, refuse, trash, vehicles or parts thereof, rubbish, debris, junk, waste, or other substance or material whatsoever or the installation of underground storage tanks;
 - e. cutting, removing, or destroying of trees, grasses, or other vegetation unless in conformance with an authorized use such as agriculture, forestry, or recreation;
 - f. subdivision; neither further division of the protected open space into lots or the use of the protected open space toward any further building requirements on this or any other lot is permitted;
 - g. activities detrimental to drainage, flood control, water conservation, water quality, erosion, soil conservation, or archeological conservation;
 - h. purposefully introducing or allowing the introduction of species of plants and animals recognized by the Executive Office of Energy and Environmental Affairs to pose a substantial risk of being invasive or otherwise detrimental to the native plant and animal species and plant communities on the property;
 - i. the use, parking or storage of motorized vehicles, including all-terrain vehicles (ATVs), motorcycles, and campers, except in conformance with an authorized use of the open space or as required by the police, firefighters, or other governmental agents in carrying out their duties; and
 - j. any other use or activity which would materially impair conservation interests unless necessary in an emergency for the protection of those interests.
6. Special Land Features. The Planning Board may request that the applicant use an OSD subdivision design if the property possesses one or more of the following special features:
- a. Unfragmented open land as identified as a priority for protection in the Town's Open Space and Recreation Plan, Master Plan, or Community Development Plan;

- b. Agricultural land with agricultural soils (designated as prime or of statewide or local significance by the U.S. Natural Resource Conservation Service soil surveys);
- c. Rare, threatened, or endangered species or exemplary natural communities according to the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program;
- d. Unique natural, cultural, and/or historical features as identified in the Master Plan or Community Development Plan.

6.2.5 Application requirements

1. Pre-submission review. Before preparation of a preliminary or definitive plan, the applicant is strongly encouraged to request a pre-submission review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, Open Space Committee, Agricultural Advisory Committee, Public Works Superintendent, Chief of Police, Fire Chief, and the Town Administrator. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-submission review, the applicant may outline the proposed development including both conventional and OSD sketch plans, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. Request for pre-submission review shall follow all procedures specified in the Town of Hatfield Subdivision Regulations, Section 4.1.
2. Site Visit. Applicants are encouraged to request a site visit by the Planning Board and/or its agents in order to facilitate pre-application review of the proposed development. If one is requested, the Planning Board shall invite the Conservation Commission, Board of Health, Historical Commission, Open Space Committee, Agricultural Advisory Committee, Public Works Superintendent, Chief of Police, Fire Chief, and the Town Administrator.
3. Site Context Map. A Site Context Map shall be submitted/presented to the Planning Board during the pre-application review. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field instructions, it shall show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
4. Existing Resources/Site Analysis Map. The following shall be submitted/presented to the Planning Board during the pre-application review at a regularly scheduled meeting for the purpose of assessing the impact or implications of the development and shall be used in the preparation of a preliminary design plan.
 - a. Boundaries of wetlands defined by Massachusetts Wetlands Law CMR-140 and certified by a licensed wetlands professional engineer;

- b. Location and limits of soil types, particularly Agricultural Soils, consistent with the soils classification maps prepared by the Natural Resources Conservation Service;
 - c. Areas where the depth of natural soil to bedrock is four (4) feet or less;
 - d. The extent of any Interim Wellhead Protection Areas and Recharge Areas and Recharge Areas;
 - e. Topographic contours at intervals of ten (10) feet or less;
 - f. Delineation of slopes of twenty-five percent (25%) or greater;
 - g. The location of cultural and historic features including, but not limited to, stonewalls, archaeological and historic sites and structures, and significant and rare vegetation;
 - h. Areas delineated as “BioMap Core Habitat” or “Supporting Natural Landscape” on the Massachusetts BioMap Project developed by the Massachusetts Natural Heritage & Endangered Species Program.
5. Preliminary Subdivision Plan Submission. A Preliminary Subdivision Plan may be submitted in conformance with the standards set forth in this Bylaw and in Town of Hatfield Subdivision Regulations as applicable. Applicants may submit the preliminary design to the Planning Board for review prior to development of a Definitive Plan. Approval of the Preliminary Plan by the Planning Board will be based on the review criteria standard set forth in Section 6.2.4(6).
6. Review of Preliminary Plan. The Planning Board shall review the Preliminary Subdivision Plan in accordance with the criteria contained in this Bylaw, in the Town of Hatfield Subdivision Rules and Regulations Section 4.2, and with other applicable regulations of the Town of Hatfield. The review shall informally advise the applicant to the extent to which the proposed subdivision or land development conforms to the relevant standards of this Bylaw and may suggest possible plan modifications that would increase its degree of conformance. The review shall include, but is not limited to:
- a. The location of all areas proposed for land disturbance (streets, foundations, yards, septic disposal systems, stormwater management areas, etc.) with respect to notable features of natural or cultural significance as identified on the applicant’s Existing Resources/Site Analysis Map;
 - b. The potential for street connections with existing streets, other proposed streets, or potential developments of adjoining parcels;
 - c. The location of proposed access points along existing road networks;
 - d. The proposed building density and areas of impervious surface.

6.2.6. Subdivision Approval Procedures (Previously 6.2.12)

- 1. ~~Applicants for Open Space development projects shall follow all procedures specified in the Town of Hatfield Subdivision regulations. A final Definitive Development Plan shall be submitted in conformance with this section and the procedures specified in the Town of Hatfield Subdivision regulations as applicable. Such Plans shall adequately address standards delineated in this~~

bylaw. In addition, the Definitive Development Plan shall address issues that have been previously discussed in the Existing Resources/Site Analysis Map.

2. Reviewing Agencies: The Planning Board shall submit copies of the final subdivision plans to the Board of Health, Conservation Commission, Open Space Committee, Agricultural Advisory Committee, Public Works Superintendent, Chief of Police, Fire Chief and the Town Administrator for review and comment.

6.2.7 Net Developable Area

1. The net developable area of a parcel for Open Space Development shall be the total area of all lots shown to be developable under the Town of Hatfield Subdivision Regulations and zoning, and shall be calculated by the following procedure:
 - a. The area of those lots which is determined to be not suitable for on-site sewage disposal shall be subtracted from the developable area of the total parcel, except in those areas where lots will be served by town sewer.
 - b. Under the supervision of the Conservation Commission, the total acreage of all wetlands, in accordance with the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Hatfield Wetlands Protection Bylaw shall be identified and their area subtracted from the developable area of the total parcel.
 - c. The area of those lots which is identified as having steep slopes (slopes of 25% or greater) shall be subtracted from the developable area of the total parcel.

6.2.8 Dimensional Standards

1. Allowed Density:
 - a. The maximum number of dwelling units for an OSD shall be determined by use of a yield plan, which is a conceptual showing how the parcel could be subdivided in a conventional manner. Determination of the possible number of conventional lots shall be determined by Title V regulations, 310 CMR 15.000, as well as the Town of Hatfield Board of Health Regulations. For purposes of determining the number of OSD dwelling units, each conceptual conventional lot must meet the requirements of a buildable lot for a dwelling unit allowed by-right as defined in the zoning district in which the OSD is located and meet all other applicable requirements of the Zoning Bylaw and Subdivision Regulations.
 - b. There shall be no further subdivision of an approved OSD.
2. Flexible Dimensional Controls.
 - a. Frontage
 1. ~~The frontage of the parcel from which the lots of a Open Space development are created (whether or not by subdivision) shall equal or exceed 60 feet for each lot created in the Open Space development, as~~

shown in the Table of Open Space Development Dimensional Requirements (Table 6.2.13).

- ~~2.~~
 1. In the interest of flexibility and creative site designs, and provided that all other requirements of this bylaw are met, there shall be no frontage required for individual lots on new subdivision streets within an OSD, with the exception described in 6.2.8.2(a)2 below. Each lot shall have adequate access on a public way.
 3. ~~To the extent feasible, all buildings shall be located out of view from any road, and protected open space shall be located adjacent to public ways. Any building lot which fronts on an existing public road shall have the frontage normally required in the zoning district.~~
 - b. ~~Lot Size Department of Environmental Protection Regulation~~
 1. ~~Individual lot areas may be as small as the minimum lot sizes shown in Table of Open Space Development Dimensional Requirements (Table 6.2.13), provided that the average size for all lots created, including any land reserved as open space, shall be no smaller than the required average lot size, shown in Table 6.2.13.~~
 2. ~~The total number of building lots which can be created from any parcel shall be determined by dividing the net developable area (see Section 6.2.3) by the required average lot size shown in the Table of Open Space Development Dimensional Requirements (Table 6.2.13).~~
 1. All Open Space Developments must meet minimum State Environmental Code (Title V) requirements, as described in Section 6.2.11.1.
 - c. Setbacks
 1. All lots within an Open Space Development shall meet the front, rear and side yard requirements specified in the Table of Open Space Development Dimensional Requirements (Table 6.2.15).
 - d. Required Open Space
 1. ~~All land not used for building lots, but not less than 40% of the total parcel area, shall be placed in permanent open space in accordance with Section 6.2.9 of this bylaw. All land not used for building lots, but not less than 50% of the total parcel area, shall be placed in permanent open space in accordance with Section 6.2.12 of this bylaw.~~
3. Landscaped Buffers.
- a. ~~All lots within an Open Space development shall meet the front, rear and side yard requirements specified in the Table of Open Space Development Dimensional Requirements (Table 6.2.13).~~
 - a. All residential structures and accessory uses shall be set back from the boundaries of the development by a buffer strip of at least fifty (50) feet in width which shall include trees and shall be kept in a natural or landscaped

condition to screen the development from public streets and adjacent properties. Entrance streets connecting the OSD to the external street system may cross the buffer area. The natural vegetation shall be retained whenever possible. If the natural vegetation is not sufficient to serve as an effective visual screen, landscaping shall be required to provide such a screen. Landscaping shall include trees and may be used for storm water management provided that screening functions are not compromised.

4. Common Driveways.

The Planning Board may authorize the use of common driveways to allow greater flexibility in the design of an OSD. All applications for common driveways must follow the procedures and design criteria set forth in Section 5.8 of the Town of Hatfield Zoning Bylaws.

6.2.9 INCREASES IN PERMISSIBLE DENSITY.

1. The Planning Board may award a density bonus to increase the number of dwelling units beyond the Basic Maximum Number for an OSD Plan. The density bonus for the OSD shall not, in the aggregate, exceed twenty percent (20%) of the Basic Maximum Number. Computations with fractions of less than 0.5 shall be rounded down to the next whole number and 0.5 or more shall be rounded up. A density bonus may be awarded in the following circumstances:
 - a. For each additional ten percent (10%) of the site (over and above the required 50%) set aside as open space, a bonus of five percent (5%) of the Basic Maximum Number may be awarded. For each additional ten percent (10%) of the site comprised of entirely agricultural soils set aside as open space (over and above the required 50%), a bonus of ten percent (10%) of the Basic Maximum Number may be awarded. Calculations shall be rounded down to the nearest integer when determining this bonus.
 - b. For every one (1) dwelling units restricted in perpetuity to occupancy by either Moderate-Income Households or by Low-Income Households, one (1) market rate dwelling unit may be added to the Basic Maximum Number. Affordable housing units may be used toward density bonuses only if they can be counted toward the Town's affordable housing inventory as determined by the Massachusetts Department of Housing and Community Development. The applicant shall provide documentation demonstrating that the unit(s) shall count toward the community's affordable housing inventory to the satisfaction of the Planning Board.
 - c. For every historic structure, approved as such by the Hatfield Historical Commission, preserved and subject to a historic preservation restriction by the Massachusetts Historical Commission, one (1) dwelling unit may be added to the Basic Maximum Number.
2. Special Permit Process for Increases in Permissible Density. The applicant must apply for, and the Planning Board may award, a special permit for a density bonus to increase the number of dwelling units beyond that otherwise allowed. The density bonus for an OSD shall not, in the aggregate, exceed 20% of the Basic Maximum Number. The applicant shall clearly illustrate the number and location of dwelling units created by the density bonus(es). Upon final approval of site plans, the Planning Board shall make a decision to grant, deny, or grant with conditions, the Special Permit to increase the density of development in the OSD as per the process indicated in Section 5.0 of the Hatfield Zoning Ordinance.

6.2.10 Site Design Standards

1. Aesthetics: Each structure shall be integrated into the existing landscape on the property so as to minimize its visual impact through the use of vegetative and structural screening, landscaping, grading, and placement on or into the surface of the lot. Development shall relate harmoniously to the terrain and the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. All open space (landscaped and usable) shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby resources.
2. Cultural and Natural Resources: Lots shall be laid out and designed, to the greatest extent feasible, to preserve and protect historic and archaeological sites, farmland, wooded stream corridors, forested areas and large trees, scenic views particularly as seen from public roads, ridgelines and hilltops.
3. Disturbed Areas: In order to maximize the amount and contiguity of preserved open space, and consistent with the Planning Board's conservation findings, every effort shall be made to minimize and concentrate the amount of disturbed area (defined as any land not left in its natural vegetated state), by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. The orientation of individual building sites shall maintain maximum natural topography and cover. Topography, tree cover, surface water buffers, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
 4. Soils: All buildings, roads and driveways shall be located away from soils which are most suitable for agriculture (based on Natural Resources Conservation Service classifications for prime farmland soils and soils of state and local importance) to the maximum practical extent. This provision does not apply to the location of on-site septic disposal facilities which must be placed in soils meeting the Massachusetts Environmental Code.
5. Ways: Streets shall be located and designed to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel. The Planning Board may modify the applicable road construction requirements for new roads within an OSD as provided in the Subdivision Regulations if it finds that such modifications will be consistent with the purposes of this section, this Bylaw, and the Master Plan.

6.2.11 Utility Requirements

1. On-site Sewage Disposal

The following standards shall apply to developments requiring on-site sewage disposal:

- a. The applicant shall submit a septic system design prepared by a certified engineer and approved by the Board of Health and plan illustrating the location of water supply wells with the application.
- b. All Open Space Developments must meet the minimum state Environmental Code (Title V) requirements for minimum setbacks between private water supply wells and septic tanks or soil absorption systems (310 CMR 15.211).
- c. All Open Space Developments must meet the minimum state Environmental Code (Title V) requirements for nitrogen loading limitations (310 CMR 15.214-15.217). For Open Space Developments with individual lot sizes less than 40,000 square feet, applicants must meet the following standards:
 - i. Applicants must designate, on a plan, specific areas of common open space as “nitrogen credit land”, based on the following equation:
$$(40,000 \text{ square feet} \times \text{number of lots}) - (\text{total square feet in proposed Open Space lots}) = \text{square feet of required nitrogen credit land in common open space}$$
 - ii. Nitrogen credit land must meet DEP qualifications contained in “Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading 310 CMR 15.216” including, but not limited to, the following qualifications:
 - Must be restricted to prohibit man-made sources of nitrogen, including sewage discharge, nitrogen-based fertilizer or raising and grazing of livestock;
 - Must be restricted to prohibit artificially rendered imperviousness (i.e. paved streets, paved parking lots, buildings, structures, etc.);
 - Not within a Velocity Zone or Regulatory Floodway identified by FEMA;
 - Not under surface water;
 - Not already being used as nitrogen credit land.
 - iii. All designated nitrogen credit land must be permanently restricted from further development under a “Grant of Title 5 Nitrogen Loading Restriction and Easement on Nitrogen Credit Land”.

After approval of the Open Space Final Subdivision Plan, applicants must apply to the Board of Health and the Mass. Department of Environmental Protection (DEP) for an aggregate determination of nitrogen loading under 310 CMR 15.216.

- d. It is required that septic systems be installed on individually-owned lots.

2. Public Sewers

Where a lot(s) is to be served by public sewers or by a package treatment plant, the application shall contain a certificate from the Board of Health stating that such public sewers or package treatment plant are adequate to serve any permitted use of the lot(s).

3. Water Supply

- a. In order to meet state Title V requirements for separation distances between drinking water wells and septic systems, private drinking water supply wells may be located in the common open space for a Open Space Development, provided that the provisions of ~~Section 6.2.10~~ Section 6.2.12 for a homeowner's association are met.

4. Stormwater Management

- a. The Planning Board shall encourage the use of non-structural stormwater management techniques and other drainage systems that reduce impervious surfaces and enable filtration where appropriate.
- b. Stormwater management systems serving the ~~Open Space Subdivision~~ OSD subdivision may be located within the required common open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space requirement.
- c. Projects must comply with Section 7 of the Town of Hatfield's Zoning Bylaw, Stormwater Management, as applicable.

6.2.12 Common Open Space

1. Common Open Space Requirements

- a. A minimum of ~~40%~~ 50% of the total development parcel must be permanently protected as common open space. At least 70% of the common open space shall be retained in contiguous areas, unless approved by the Planning Board.
- b. Water courses, lakes, ponds, wetlands and steep slopes over 25% may not be included in common open space calculations.
- c. The Planning Board may permit up to three (3) percent of the open space area to be paved or built upon for structures accessory to the dedicated use of open space (i.e. pedestrian sidewalks, bicycle paths, playgrounds, farm-related structures).
- d. All recreational facilities, common areas, and common open space shall be reasonably accessible to all residents of the development.

2. Land Protection Methods for Common Open Space

- a. All land not devoted to buildings, lots, roads and other development shall be permanently protected as common open space for recreation, conservation,

forestry or agricultural uses which preserve the land in its natural condition, using the following method:

i. The land shall be owned by a non-profit land trust or conservation organization, homeowner's association (HOA), or individual, and a permanent conservation easement or deed restriction must be conveyed to the Town, with Town approval, or to a non-profit trust or conservation organization whose principal purpose is to conserve farmland or open space. If the common open space land has soil designated as prime or of statewide or local significance by the NRCS soil surveys, it will be preferred that the land is owned by a farmer and operated as an agricultural use.

ii. ~~In the event that ownership of the land will remain with the homeowners in the Open Space Development, a non-profit, homeowner's association shall be established, requiring membership of each lot owner in the Open Space development. The association shall be responsible for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities (not including drinking water wells), except where such responsibility is assumed by another owner of the common land (land trust or conservation organization). If any drinking water well is located on common open space, the homeowner/s shall own the well and be responsible for any maintenance or related costs associated with their well. A homeowner's association agreement or covenant guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses shall be submitted with the final subdivision application. Where no homeowner's association is proposed, an alternative plan shall be submitted with the final subdivision application. Such agreement shall be subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampshire County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the town may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the town shall be assessed equally against each of the properties within the development. and the following shall apply:~~

1. The documents organizing the HOA shall be drafted and approved by the planning board before final approval of the

OSD development, recorded prior to the issuance of building permits, comply with all applicable provisions of state law, and pass with conveyance of the lots or units in perpetuity. Each individual deed, and the deed, trust, or articles of the incorporation, shall include language designed to effect these provisions.

2. Membership must be mandatory for each lot owner in the Open Space Development, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
3. The association shall be responsible in perpetuity for liability insurance, property taxes, and for the permanent maintenance of all common lands, common open space, recreational and thoroughfare facilities (not including drinking water wells), except where such responsibility is assumed by another owner of the common land (land trust or conservation organization). If any drinking water well is located on common open space, the homeowner/s shall own the well and be responsible for any maintenance or related costs associated with their well. A homeowner's association agreement or covenant guaranteeing continuing maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses shall be submitted with the final subdivision application.
4. Property owners must pay their pro rata share of the costs in Subsection 3 above, and the assessment levied by the HOA must be able to become a lien upon individual properties with the OSD.
5. The applicant shall make a conditional grant to the Town of Hatfield, binding upon the HOA, of the fee interest to all open space to be conveyed to the HOA. Such offer may be accepted the Town of Hatfield, at the discretion of the Board of Selectmen, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

6. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by processing against individual property owners in the HOA and the dwelling units they each own.
 7. Town Counsel must find that the HOA documents presented satisfy the conditions in Subsections 1 through 6 above, and such other conditions as the Planning Board shall deem necessary. It is the responsibility of the applicant to pay for any legal fees incurred for the aforementioned process.
- iii. Where no homeowner's association is proposed, an alternative subject to the review and approval of Town Counsel and the Planning Board, and shall be recorded in the Hampshire County Registry of Deeds. Such agreements or covenants shall provide that in the event that the association owners fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association owners and public hearing, enter upon such land maintain it in order to preserve taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall also provide that the cost of such maintenance by the Town shall be assessed equally against each of the properties within the development. Pursuant to G.L. Chapter 40 Section 57 the Town of Hatfield may deny any application for, or revoke or suspend a building permit or any local license or permit, due to neglect or refusal by any property owner to pay any maintenance assessments levied.
 - b. Further subdivision of common open land or its use other than recreation, conservation, forest or agriculture, except for easements for underground utilities or drinking water supply wells, shall be prohibited.
3. Additional Preferences and Requirements
 - a. Trails. Where there is an existing local or regional trail network on land adjacent to a proposed OSD, it may be suggested that the developer of the OSD try to connect to the existing trail network with trail corridors through the site. The Planning Board may encourage general public access to these trails.
 - b. Open Space. Where there is an existing network of open space or large tracts of unfragmented open space on land adjacent to a proposed OSD, it will be preferred that the developer of the OSD connect to the existing open space

with the new open space created per the requirements of this bylaw. The Planning Board would like to encourage granting public access to this open space.

- c. Forest Management. On sites where the open space to be preserved is mostly mature forest (70% or greater), the developer of a OSD may be required to submit a Forest Management Plan developed by a MA Licensed Forester and approved by the Planning Board.

6.2.13 CONFLICT WITH OTHER LAWS

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

6.2.14 SEVERABILITY

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town's Zoning Bylaw.

6.2.15 Table of Open Space Development Dimensional Requirements

Zoning district	RR	OR	TC	AG
Min. Lot Area – Standard Subdivision (sq.ft.)	45,000	60,000	45,000	60,000
Min. Lot Area - Open Space Dev. (sq. ft.) (1)	(1)	(1)	(1)	(1)
Min. Common Open Space - Open Space Dev. (percent)	40 <u>50</u>	40 <u>50</u>	40 <u>50</u>	40 <u>50</u>
Average Lot Area Open Space Dev. (sq. ft.) (2)	40,000	52,500	40,000	52,500
Min. Frontage – Standard Subdivision (ft.) (3)	200	200	200	200
Min. Frontage for Individual Lots – Open Space Dev. (ft.)	80	80	80	80

Min. Front Setback Open Space Dev. (ft.)	35	35	35	35
Min. Rear Setback Open Space Dev. (ft.)	30	30	15	30
Min. Side Setback Open Space Dev. (ft.)	15	15	15	15
Min. Distance Between Buildings Open Space Dev. (ft.)	30	30	30	30
Max. Impervious Surface Coverage of Buildable Land Open Space Dev. (percent)	25	25	25	25

- (1) All Open Space Developments must meet minimum State Environmental Code (Title V) requirements, as described in Section 6.2.11.1
- (2) Calculations for average lot areas shall be computed by adding the lot sizes for all lots in the Open Space Development subdivision, plus common open space, as described in Section 6.2.9, and dividing by the total number of lots.
- (3) The frontage of the parcel from which the lot of an Open Space Development is created shall equal or exceed at least 60 feet per developable lot created

ARTICLE 26 (2/3 Vote)

Submitted by: Planning Board

To see if the town will vote to amend the Town of Hatfield Zoning By-Laws, Section 3.4.4 Accessory Apartments of the Hatfield Zoning By-Laws, so that it reads as follows (the proposed additional text is underlined; deleted text is ~~stricken~~):

3.4.4 ACCESSORY APARTMENTS DWELLING UNITS

A. Purpose

The purpose of the accessory apartment dwelling unit bylaw is to:

- a. Provide ~~older~~ homeowners with a means of obtaining, ~~through tenants in accessory apartments, rental income, companionship, security, and services,~~ and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
- b. Add inexpensive rental units to the housing stock to meet the needs of smaller households, ~~both young and old~~;
- c. Make housing units available to low and moderate-income households who might otherwise have difficulty finding homes within the town;
- d. Protect stability, property values, and the residential character of a neighborhood by ensuring that ~~accessory apartments~~ Accessory Dwelling Units are installed ~~only in owner-occupied houses~~ and under such ~~additional~~ conditions as may be appropriate to further the purposes of this bylaw; and
- e. ~~Legalize conversions to~~ Encourage compliance with the State Building Code and ADA standards.

This bylaw is not intended to support, encourage nor allow the Short Term Rental of Accessory Dwelling Units.

B. Definitions

For the purposes of this section, the following definitions shall be used:

Accessory Dwelling Unit ("ADU"): A Dwelling Unit¹ that is located on the same lot as, and is subordinate to, a single-family dwelling on a residential lot. An ADU may be a second Dwelling Unit within the same structure as a Principal Dwelling, a part of an existing Accessory Structure such as a garage, carriage house, or workshop, or a fully-detached Accessory Structure. A structure such as a storage shed, greenhouse, chicken coop, or other non-habitable accessory structure shall not be considered an ADU.

Accessory Apartment: ~~An~~ self-contained housing unit ADU incorporated within Primary Residence the same structure as a Principal Dwelling, a single family dwelling complete with its own sleeping, cooking, and sanitary facilities and a separate means of egress.

Dwelling, Single-Family: A building designed or used exclusively as a residence and including only one dwelling unit.

Liveable Floor Area: The total floor area of a Dwelling Unit, but not including: unfinished basements, rooms solely used for HVAC equipment, garages, unenclosed porches, breezeways, or other unheated areas

¹ Ref: 9.22 "Dwelling Unit"

Primary Residence: A building in which is conducted the principal use of the lot on which it is located. For residentially zoned lots, such a building would be a dwelling.

Principal Dwelling: The largest dwelling on a residentially-zoned lot.

Short Term Rental: The rental of a residential structure for a term of less than twenty eight consecutive days²

Structure, Attached: A fully enclosed building having any some portion of one or more a foundation, roof, or walls in common with an adjacent building.

Structure, Detached: A fully enclosed building with no roof, wall or foundation in common with any other structure.

C. Accessory Apartment ADU Standards

Accessory Apartments ADUs that are contained within the existing structure of the primary dwelling unit shall be **considered an Accessory Use³ to a Principal Residence on a residential lot, and shall be** allowed by-right in all residential districts **on lots with at least 60,000 square feet lot area.** The Special Permit Granting Authority may authorize a Special Permit for accessory apartments that are attached to the existing primary dwelling unit, but that require structural modifications and/or an expansion to the primary dwelling unit in all districts.

An Accessory Apartment in owner-occupied, single-family dwelling, will be allowed by right or by Special Permit provided that the following standards and criteria are met:

- a. The apartment ADU will be a complete, separate housekeeping unit Dwelling Unit that functions as a separate unit from the original unit.
- b. Only one apartment ADU will be created **permitted** on a single-family residential lot.
- c. When expansion of the principle structure is required to accommodate the accessory apartment, the principle structure and addition **Any ADU, whether attached or detached,** must comply with **all** set back and maximum lot coverage requirements for its district.
- d. The owner(s) of the residence in which the accessory apartment ADU is located shall occupy at least one of the dwelling units on the premises, **which requirement shall be made a condition of approval by the Building Commissioner, or of any Site Plan Approval under this section, and restricted as such by a deed restriction granted to the Town, and filed with the Registry of Deeds.**
- e. The accessory apartment ADU shall be designed so that the appearance **and character** of the building remains that of a one-family residence as much as feasibly possible. In general, any new entrances shall be located on the side or rear of the building. Any exterior changes made must conform with the single-family **complements the general** character of the **Principal Residence, and the** neighborhood.
- f. An addition to the original building **any existing habitable structure on a lot for the purpose of establishing an ADU** is permitted provided that the addition does not increase the floor area or volume of the original building by more than half (50%) of the existing total residential space (excluding unfinished attic and basement, garage, porch, and patio).
- g. The accessory apartment ADU shall be clearly a subordinate part of the **to a** single-family dwelling, **in location, massing and appearance.** It shall be no greater than (100%) of the existing total residential space or **The ADU shall not exceed** nine hundred (900) square feet **in Liveable Floor Area.** , whichever is less.
- h. The accessory apartment shall have no more than 2 bedrooms.
- i **h.** In accordance with **Notwithstanding** Section 5.7 of the Town's zoning bylaw, **there shall be** at least two ~~(2)~~ **three (3)** off-street parking spaces **for use by the occupants of the**

² Refer to 4.10: "Hotel"; 4.11: "Inn"; 4.12: "Motel and Lodging House"; and 4.14: "Bed and Breakfast Inn"

³ Refer to 9.3 "Accessory Use"

Principal Dwelling and the ADU per dwelling unit and one (1) space for guests are available for use by the owner occupant(s) and tenant(s). Parking spaces shall be located to the side or the rear of the structure the Principal Dwelling, to the maximum extent feasible. Applicant may apply for a waiver from full compliance with Section 5.7 which may be granted at the determination of the Board.

- i. To the extent feasible, newly constructed Detached Accessory Dwelling Units shall be located behind the front building line of the primary structure.
- ~~j. For dwellings to be served by on-site septic system, the owner must obtain a Disposal Works Construction Permit from the Board of Health before a special permit can be obtained. This is to ensure that the existing sewage disposal system is adequate for the proposed accessory apartment.~~
- j. All exterior lighting shall be designed and installed so as to be shielded, downcast, and dark-sky compliant to avoid light trespass onto adjacent properties.
- ~~k. The construction of any accessory apartment must be in conformity with the State Building Code requirements.~~
- k. On-site storage and management of waste and recycling shall occur in the interior of the dwelling, within an attached garage or other accessory outbuilding, or otherwise screened appropriately from public view. There shall be no freestanding dumpster or storage unit associated with a property regulated under this section, except on a temporary basis in association with construction or similar temporary purposes.
- l. A reflective street address sign for each unit shall be installed at the street in a manner ensuring their visibility for public safety personnel from any approach.
- m. The accessory dwelling unit shall be designed so that the appearance and scale of the building is compatible with the primary single-family dwelling unit. Detached ADUs shall be clearly accessory to the primary dwelling unit.
- ~~o. The Building Commissioner or Permit Granting Authority shall determine the applicability of any provision of Section 10.38 when reviewing accessory dwelling unit applications.~~
- p. For Accessory Apartments and Attached ADUs, to the extent feasible, any new entrances shall be located on the side or rear of the building and any exterior changes must conform to the character of the neighborhood.

The Planning Board, after a public hearing noticed and conducted in accordance with Section 10 of Chapter 40A, may grant a waiver of any criteria in this Section 3.4.4, and approve a proposed ADU, where the applicant can offer amendments or the Planning Board can impose reasonable conditions that satisfy the intent of this Bylaw and will not impose an unreasonable harm or burden on the applicant or any immediate abutter.

D: Lots with less than 60,000 Square Feet

An ADU shall may be permitted on a lot of less than 60,000 square feet, but at least 30,000 square feet, after the Planning Board conducts a Site Plan Review Process in accordance with Section 5.5 of this Zoning Bylaw, and determines that

- i. the lot is served by municipal wastewater service, or has sufficient existing septic capacity as determined by the Board of Health or their agent;
- ii. the applicant has notified immediate abutters through mail about the project, and provided the Site Plan Review Process' meeting details.
- iii. the lot has sufficient capacity to provide parking, access, and egress, for residents on the lot without significant regular disturbance to the immediate abutters;

- iv. the proposed ADU will not create a clear and significant impediment to the abutters' quiet enjoyment of their own property;
- v. the proposed ADU will not reasonably or significantly detract from the character of the immediate neighborhood; and
- vi. the proposed ADU is consistent with the intent and purposes of this section, and the Zoning Bylaw.

Failure to meet any single criteria shall not be fatal to any proposed ADU, where the applicant can propose, or Planning Board can impose, reasonable conditions that effectively remediate any deficiency, and the Planning Board so finds.

An ADU is not permitted on any lot with less than 30,000 square feet.

D. Application E. Procedure for obtaining a Building Permit for an ADU

a. Prior to approval of a Building Permit for an ADU, the property owner(s) must file a Deed Restriction for the subject property at the Hampshire County Registry of Deeds, signed by the Building Inspector or other party so authorized to act on behalf of the Town as an interested party, that

- prohibits the sale of either structure separate from the whole lot
- prohibits division or subdivision of the lot that would result in either structure being on a separate parcel from the other
- prohibits the Short Term Rental of either structure;
- requires full-time owner occupancy of either the Principal Dwelling or the ADU;
- requires maintenance of independent exterior access for both units;
- stipulates that the deed restriction shall "run with the land", and be binding on successors, heirs and assigns in perpetuity; and
- recognizes the right of the Town to enforce the deed restriction through any proceedings at law or in equity.

a. The procedure for the submission and approval of a Special Permit for an Accessory Apartment shall be the same as prescribed in the Section 5.3 of the Town's zoning bylaw except it shall include a notarized letter of application from the owner(s) stating that he/she will occupy one of the dwelling units on the premises. A non-refundable fee shall be included with the application for an accessory apartment to cover the cost of processing the application and code inspections. The applicant shall also be responsible for the cost of legal notices. As part of the public hearing process, parties of interest, as defined in M.G.L. Chapter 40A, Sec. 11 must be notified.

b. Upon receiving a Special Permit or Building Inspector approval, the owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.

c. In order to provide for the development of housing units for disabled and handicapped individuals, the Planning Board will allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

E. Transfer of Ownership of a Dwelling with an Accessory Apartment

a. The temporary Special Permit for an Accessory Apartment shall terminate upon the sale of property or transfer of title of the dwelling, unless the Planning Board has approved a transfer of the Special Permit to the new owner.

b. The new owner(s) must apply for transfer of a Special Permit for an Accessory Apartment and shall submit a notarized letter of application stating that he/they will occupy one of the dwelling units on the premises and a written request to the Planning Board stating that

conditions at the time of the original application remain unchanged. Minor changes may be approved without a hearing.

- e. ~~Upon receiving the transferred special permit, the new owner(s) must file on subject property a Declaration of Covenants at the County Registry of Deeds. The Declaration shall state that the right to rent a temporary accessory apartment ceases upon transfer of title. A time-stamped copy of the recorded Declaration shall be provided to the Planning Board.~~

F. Accessory Apartments **ADUs** in Existence Before the Adoption of an Accessory Apartment

Dwelling Unit Bylaw

- a. Statement of Intent

To ensure that Accessory Apartments or conversions built within the 10 years prior to the adoption of this Accessory Apartment Bylaw are in compliance with **this bylaw and all applicable** health and safety requirements included in the State Building Code.

- b. Application Procedure

~~The Planning Board may authorize, under a Special Permit and in conjunction with the Building Inspector, a use known as an Accessory Apartment. The board will review each existing Accessory Apartment constructed after July 1, 2009 on a case-by-case basis to determine if the dwelling conforms to State Building Code Regulations. Owners of properties with an Accessory Apartment that are not compliant with State Building Code must provide plans for bringing the Accessory Apartment up to code and must apply for a special permit in order to continue the use as an Accessory Apartment.~~

~~The applicant must follow the same procedure described in this Section including the submission of a notarized letter declaring owner occupancy and a Declaration of Covenants.~~

- e **b.** Pre-existing, non-conforming Accessory Apartments **ADUs**

~~Accessory Apartments **ADUs** that were constructed prior to July 1, 2009 _____, **the date of adoption of this Section 3.4.4**, may continue to operate as a pre-existing, non-conforming use and are subject to the requirements under Section 3.4 (Non-Conforming Buildings and Uses).~~

G. Conflict with Other Laws

The provisions of this bylaw **Section 3.4.4** shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

H. Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town's zoning bylaw.

ARTICLE 27 (2/3 Vote)

Submitted by: Select Board

To see if the Town will vote, pursuant to G.L. c. 40, §14 and all other enabling laws, to authorize the Select Board to acquire by gift or purchase, or to take by eminent domain, a permanent easement for the purpose of a concrete headwall and stone outlet protection shown as Parcel H-D-21 on a plan entitled "Massachusetts Department of Transportation Highway Division Plan and Profile of Haydenville Road in the Town of Whately-Williamsburg," dated November 16, 2023, a copy of which is on file with the Town Clerk's office, as said plan be amended, as may be necessary or convenient in connection with the Haydenville Road Improvement Project in Whately; or take any other action in connection therewith.

ARTICLE 28 (Majority vote)
Submitted by: Select Board

To see if the Town will vote to hear any and all reports which have to do with the welfare of the Town; or take any other action relative thereto.

And you are directed to serve this Warrant by posting attested copies thereof in five (5) places in the Town of Hatfield, at least eight days before the time of said meeting. Hereof fail not and make due return of this Warrant with your doings thereon to the Clerk at the time and place of said meeting.

Given under our hands and seals this 23rd day of April two thousand twenty-four.

Diana M. Szynal Diana M. Szynal, Chair

Edmund Jaworski Edmund Jaworski

Greg Gagnon Greg Gagnon

THE HONORABLE SELECT BOARD OF THE TOWN OF HATFIELD IN THE
COMMONWEALTH OF MASSACHUSETTS

April 29, 2024

I HAVE THIS DAY POSTED TRUE AND ATTESTED COPIES OF THE ABOVE WARRANT IN FIVE PUBLIC PLACES
IN THE TOWN OF HATFIELD.

ATTEST: [Signature]

