

ZONING ORDINANCE OF THE TOWN OF PLYMOUTH, NEW HAMPSHIRE



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**ZONING ORDINANCE
OF THE TOWN OF PLYMOUTH,
NEW HAMPSHIRE**

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**Visual representation of zones and airport overlay available at Town Hall and Town Website
www.plymouth-nh.org
Ordinance last amended 2019**

**ZONING ORDINANCE
OF THE
TOWN OF PLYMOUTH, NEW HAMPSHIRE**

ARTICLE I: AUTHORITY, PURPOSE & TITLE

Section 101 Authority and Purpose

Pursuant to the authority, conferred by RSA Title LXIV, New Hampshire revised Statutes Annotated 1984, the purposes of this Ordinance are declared to be the protection and promotion of the health, safety, and general welfare of the community. The zoning regulations and districts are in accordance with the Plymouth Master Plan and are designed: to preserve Plymouth's small town atmosphere and attractive natural setting; to guide development and growth while protecting areas such as wetlands, natural habitats, agricultural lands, historic/cultural resources, aquifers and river quality; to strive to mitigate environmental impacts associated with development and growth; to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to avoid undue concentration of population, to promote good civic design and arrangements, to protect the value of homes and land, to facilitate the wise expenditure of public funds and to ensure adequate provision of transportation, water, sewerage, schools, parks and other public requirements. This Ordinance is created giving full consideration to the natural capability of the land to sustain development and to community goals.

Section 102 Title

This Ordinance shall be known and cited as the “Zoning Ordinance of the Town of Plymouth, New Hampshire.”

Section 103 Obligation to Comply

It is the continued obligation of all owners, tenants, occupants and persons in possession of property to comply with, and to assure that use of property complies with, all terms of this Ordinance. Any such persons who violate this Ordinance or who knowingly permit violation of this Ordinance to occur on property owned or controlled by them shall be subject to an enforcement action under Section 1102.11 and to penalties for violation for violation imposed by Section 1101.2 and New Hampshire statute, including but not limited to RSA Chapter 676.

ARTICLE II: DEFINITIONS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows. In addition, as to Article VII, Floodplain Development, the terms used therein but not defined below shall be interpreted as set forth in Chapter X, Title 24 of the Code of Federal Regulations, Section 1909.1.

Section 201 Word Definitions

The word PERSON includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. The word SHALL or WILL is mandatory, the word MAY is permissive. The Planning Board hereby incorporates by reference the definitions of the following terms contained in RSA chapter 672. The Board intends to utilize the text of these definitions as they may be subsequently amended, to the extent possible: "Abutter" (RSA 672:3), "Street" (RSA 672:13) and "Subdivision" (RSA 672:14).

Section 202 Term Definitions

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically-controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE OR ADULT VIDEO STORE: An establishment, which, as one of the principal business purposes, offers for sale, rental, or any other form of consideration any one of the following:

- a) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, or other video reproductions, slides, computer software, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."
- b) Instruments, devices, or paraphernalia, which are designed for use in conjunction with "specified sexual activities."

ADULT CABARET: A nightclub, or restaurant, or similar commercial establishment, or a private membership, fraternal membership, or social club, which during a substantial portion of the total presentation time features:

- a) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- b) Films, motion pictures, video cassettes, or other video reproductions, slides, computer software, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."

ADULT THEATER: A theater, concert hall, auditorium, or similar place of public assembly which features persons who appear in a state of nudity or live performances in which a substantial portion of the total presentation time is devoted to the showing of material which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

AGRICULTURE: Use of land for farming, dairying, pasturing, floriculture, horticulture, forestry, and/or

animal and poultry husbandry.

AIRPORT: Plymouth Municipal Airport.

AIRPORT ELEVATION: The highest point of an airport's usable landing area measured in feet from sea level.

APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in **Section 803** of this Ordinance. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES: These zones are set forth in Section 802 of this Ordinance.

AREA OF SHALLOW FLOODING: (see Article VII Floodplain Development Section 702).

AREA OF SPECIAL FLOOD HAZARD: (see Article VII Floodplain Development Section 702).

ATTACHED DWELLING UNIT: A dwelling unit separated from other dwelling units by party walls but where no portion of a dwelling unit extends over a portion of another.

AUTO SERVICE STATION: Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and/or does mechanical repairs and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, or otherwise cleaning or servicing such motor vehicles. A service station is not a sales or major repair agency for autos, trucks, or trailers.

BANK: A financial institution that is open to the public, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit and for facilitating the transmission of funds.

BAR/TAVERN/NIGHTCLUB: A retail establishment that primarily engages in preparing and serving alcoholic beverages for on-premise consumption. These establishments may also provide limited food services. If more than 50% of the establishment's gross receipts (as determined by the State Liquor Commission) are from the sale of alcoholic beverages, then the establishment will be considered a bar or tavern as opposed to a restaurant (see definition of restaurant). (Adopted 3/10/89, by Warrant Article)

BASE FLOOD: (see Article VII Floodplain Development Section 702).

BASEMENT: (see Article VII Floodplain Development Section 702).

BED & BREAKFAST: A transient lodging facility that is the personal residence of its owner and is occupied by the owner at the time of rental to a patron in which the only meal served is breakfast to in-house guests. A bed and breakfast shall have no more than four (4) rentable rooms in the residence and have an area of dining capable of accommodating the number of registered guests whose posted room rates shall include breakfast.

BREAKAWAY WALL: (see Article VII Floodplain Development Section 702).

BUFFER: An area of land used to separate visibly one use from another or which acts as a separation between two land uses of different intensity.

BUILDINGS: A constructed unit forming a shelter for persons, animals, or property and having a roof and being permanently located on the land. Where the context allows, this word “building” shall be construed as though followed by the words “or part thereof” (also see Article VII Floodplain Development Section 702).

CAMPING TRAILER: A non-self-propelled structure mounted on wheels, requiring for occupancy the unfolding or erection of parts, and designed for travel, recreation, and vacation use.

CEMETERY: Land used for the burial of deceased humans or cremated human remains which is dedicated for cemetery purposes.

CHILDCARE CENTER: A building or structure where care, protection and supervision are provided, on a regular schedule, at least twice a week to four or more children, unrelated to the operator or caregiver. A childcare center does not include an occupied residence where childcare is provided as a home occupation.

CHURCH: A place for worship and related religious functions, not for habitation.

CIVIC USES: Uses by agencies and departments of local, county, state and federal governments. The type of function of the governmental facility is stated below:

OFFICE: Includes such functions as government office, laboratory, post office, clinic, assembly, and court.

EDUCATION: Includes such functions as elementary, middle, junior high and high schools, college, vocational or technical schools, kindergarten, library, and similar educational institutions.

INSTITUTION: Governmental and other facilities primarily engaged in public services such as education, health and research.

PUBLIC SAFETY: Includes such functions as fire, police, rescue, and ambulance services.

SERVICE: Includes such functions as garage, warehouse, vehicular repairs, outside storage for vehicles and supplies, and similar uses.

RECREATION: Includes such functions as recreation center, senior citizen’s center, gymnasiums, auditorium, and outdoor recreation facilities such as play fields, tennis courts and golf courses.

REFUSE DISPOSAL: Includes areas of structures for disposal of sewage, solid waste and garbage under the control of a governmental unit, including sanitary landfills, incinerators, sewage treatment plants and similar methods of disposal.

CEMETERY: Includes such functions as cemetery, cemetery vaults and necessary maintenance structures.

PARKING: Includes but is not limited to, municipally owned parking facilities, available for use by the general public.

COMMERCIAL SERVICE: A business which provides or sells a service rather than a product such as, but not limited to, barber, hairdresser, beauty parlor, shoe repair, shoe shine, dry cleaner, or photographic studio.

COMMON OPEN SPACE: Land within an open-space residential development, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development, or the public, which may contain such accessory structures and improvements as are necessary and appropriate for recreational purposes. A condition of the open-space residential development approval shall be that common open space may not be further subdivided.

COMPLYING STRUCTURE: A complying structure means a structure or part thereof that is in compliance with the Zoning Ordinance covering building bulk, dimensions, height, area, yards, density or off-street parking or loading requirements.

CONDOMINIUM: A multi-unit property, each of whose residents enjoy exclusive use of their individual unit and retains an undivided interest in common elements.

CONFORMING USE: A use, which occupies a building or land that does conform to the use regulations of the zone in which it is located.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

CONTINUING CARE RETIREMENT COMMUNITY (CCRC): A residential community for the elderly, which includes a contract for lifetime residency. A CCRC may have common facilities, including but not limited to licensed intermediate and skilled nursing facilities primarily for and adequate to meet the needs of the residents, and other services, which are not accessory to other, permitted uses. The community and all of its facilities shall be under one ownership.

DEVELOPABLE LAND: The developable land area is that portion of the tract remaining after deducting the undevelopable land area (such as wetland and steep slopes) from the total tract area.

DEVELOPMENT: (see Article VII Floodplain Development Section 702).

DRIVE-THROUGH SERVICE: A service that by design, physical facilities, or packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

DWELLING: Any building or part thereof that is designed or used for non-transient residential purposes.

ACCESSORY DWELLING UNIT: An “accessory dwelling unit” (or “ADU”) is a residential living unit that is within, attached to or detached from a single-family dwelling, and that provides independent living facilities for one or more persons (but no more than two adults per ADU), including provisions for sleeping, eating, cooking and sanitation on the same parcel of land as the principal dwelling unit it accompanies. The ADU shall be approved by the issuance of a Conditional Use Permit which meets the criteria of the zoning ordinance and planning review.

Every accessory dwelling unit shall be deemed a resident of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59.

DWELLING, SINGLE-FAMILY: A detached residential dwelling unit other than manufactured housing, designed for and occupied by one family only.

DWELLING, TWO-FAMILY: A residential building designed for or occupied by two families living independently of each other in individual dwelling units, each with a separate entrance.

DWELLING, MULTIPLE UNIT: A residential building designed for or occupied by three to six families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING UNIT: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. It shall not include motel, hotel, tourist home, rooming house, or similar structures.

EDUCATION: Includes such functions as elementary, middle, junior high and high schools, college, vocational or technical schools, kindergarten, library, and similar educational institutions.

ESSENTIAL SERVICES: The distribution or transmission of public utilities. Essential service shall include but not be limited to wires, drains, sewers, and conduits. Essential services shall not include wireless communication facilities.

FAMILY, RELATED: Any number of persons related by blood or by marriage or adoption living together as a single housekeeping unit.

FAMILY, UNRELATED: Any group of 3 persons or less not related by blood, marriage nor adoption living together as a single housekeeping unit. In determining the maximum number of persons, the children of any resident shall not be counted.

F.E.M.A.: (see Article VII Floodplain Development Section 702)

FENCE: Any barrier acting or intending to act to enclose, separate or screen areas of land including all fences of such height to be reasonably adequate for their purpose and in good repair, consisting of rails, timber, board or stone wall, barbed, electrified or woven wire, chain-link or wire mesh, and all brooks, rivers, ponds, creeks, ditches, hedges and other things deemed by the fence viewers to be equivalent thereto, shall be accounted legal and sufficient fences.

FLOOD OR FLOODING: (see Article VII Floodplain Development Section 702).

FLOOD BOUNDARY AND FLOODWAY MAP: (see Article VII Floodplain Development Section 702).

FLOOD ELEVATION STUDY: (see Article VII Floodplain Development Section 702).

FLOOD INSURANCE RATE MAP (FIRM): (see Article VII Floodplain Development Section 702).

FLOODPLAIN or FLOOD-PRONE AREA: (see Article VII Floodplain Development Section 702).

FLOOD PROOFING: (see Article VII Floodplain Development Section 702).

FLOODWAY: (see Article VII Floodplain Development Section 702).

FLOOR AREA, GROSS: The sum of the areas of the several floors of main and accessory building(s) on a lot, as measured by exterior faces of the walls, and of enclosed porches as measured by exterior limits thereof, but excluding the areas of unroofed and/or unenclosed porches or terraces, basements or attics used only for accessory storage or service, and accessory buildings used for garage purposes.

FORESTRY: Forestry is the growth and harvesting and processing of forest products.

FRONTAGE: The width of a lot measured along its common boundary with the street line.

FUEL STORAGE: Gasoline fuels, propane, oil or oil derivatives or by-products of more than 1,000 gallons.

FUNCTIONALLY DEPENDENT USE: (see Article VII Floodplain Development Section 702).

FUNERAL HOME (MORTUARY, FUNERAL PARLOR): Pursuant to RSA 325, a place or premise devoted to or used in the care and preparation for the funeral and burial of dead human bodies or maintained for the convenience of the bereaved for viewing or other services in connection with dead human bodies or as an office or place for carrying on the profession of funeral directing.

HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEALTH CARE FACILITY: A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human diseases, pain, injury, deformity, or physical condition, including but not limited to a general hospital, diagnostic center, treatment center, rehabilitation center, extended care center, nursing home, intermediate care facility, outpatient laboratory, or central services facility serving one or more such institutions.

AMBULATORY SURGICAL FACILITY: means a health care facility or a portion of a health care facility which provides surgical treatment to patients not requiring hospitalization, and does not include the offices of private physicians or dentists, whether in individual or group practices

HOSPITAL: An institution which is engaged in providing to patients, under supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of such persons. The term "hospital" includes psychiatric and substance abuse treatment hospitals.

CLINIC, MEDICAL OR DENTAL: A facility operated by one or more physicians, dentists, chiropractors or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis

Nursing Home: Means a place which shall provide, for 2 or more persons, basic domiciliary services (board, room, and laundry), continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required

CONTINUING CARE RETIREMENT COMMUNITY (CCRC) A residential community for the elderly, which includes a contract for lifetime residency. A CCRC may have common facilities, including but not limited to licensed intermediate and skilled nursing facilities primarily for and adequate to meet the needs of the residents, and other services, which are not accessory to other, permitted uses. The community and all of its facilities shall be under one ownership

HEIGHT: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HIGHEST ADJACENT GRADE: (see Article VII Floodplain Development Section 702).

HISTORIC STRUCTURE: (see Article VII Floodplain Development Section 702).

HOME OCCUPATION: Any use that is conducted from or within a residential dwelling unit and is clearly incidental and secondary to the use of the building as a residential dwelling and does not change the residential character thereof. (**see Section 412**).

HOMEOWNER'S ASSOCIATION: A private nonprofit association which is organized by the developer of an open space residential development in which individual owners share common interests in open space and/or facilities and are in charge of preserving, managing and maintaining the common property, and enforces certain covenants and restrictions.

HORIZONTAL SURFACE: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

HOSPITAL: Includes sanitarium, clinic, nursing home, convalescent home, and any other place for the diagnosis, treatment or care of human ailments.

HOTEL: A building or group of building which contain four or more apartments or living accommodations for ten or more persons, with or without kitchens, and which constitute primarily the temporary abode of persons who have their residence elsewhere. This shall include motel and hotel.

INDUSTRY: The assembly, manufacture, processing, packaging or other operations to goods or materials. HOME OCCUPATIONS are excluded.

INSTITUTION: Facilities primarily engaged in public services including, but not limited to, education, research, health and public worship.

JUNKYARD: Any yard or field used for the storage of old metals, old bottles, solid textile mill waste, unfinished cloth, old paper products, old rubber products, old plastic products, two or more unregistered motor vehicles which are unfit for use on highways, used parts and materials of motor vehicles and other second hand or waste articles.

LABORATORY RESEARCH: Laboratory for use as a commercial, scientific, or research laboratory of a non-nuisance and non-hazardous character.

LOT: A lot is a parcel of land.

LOT AREA: The horizontal area of the lot lying within the lot lines, exclusive of any area in a street and any fresh water.

LOT, CORNER: A lot situated at the intersection of, and abutting two streets, which have an angle of intersection of not more than 135 degrees. A lot abutting on a curved street shall be deemed a corner lot if the tangents to the curve at its points of intersection with the side lot lines meet at the interior angle of NOT MORE than 135 degrees.

LOWEST FLOOR: (see Article VII Floodplain Development Section 702).

LUMBERYARD (HOME IMPROVEMENT CENTER): A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber by performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

MANUFACTURED HOUSING: Any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a. (see Article VII Floodplain Development Section 702).

MANUFACTURED HOUSING PARK: Any tract of land, portions of which are leased or rented, on which three or more manufactured houses are parked and occupied for living purposes.

MANUFACTURE OF GOODS SOLD ON PREMISES: The transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials, where the product is sold solely on-site. Examples include bakery, print shop, etc.

MEAN SEA LEVEL: (see Article VII Floodplain Development Section 702).

METHADONE TREATMENT CLINIC/FACILITY: Methadone treatment facility means any property licensed facility, other than a hospital, where the drug methadone is administered or dispensed to patients for the purposes of opiate addiction treatment.

MOTOR HOME: A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

NON-COMPLYING STRUCTURE: A non-complying structure means a structure or part thereof not in compliance with the Zoning Ordinance covering building bulk, dimensions, height, area, yards, density, off-street parking or loading requirements.

NON-CONFORMING USE: A use, building or land which was legal at the effective date of this Ordinance or amendments thereto that does not conform to the use regulations of the zone in which it is located.

NOXIOUS USE: Any use that would be harmful, injurious, or unhealthy.

OFFICE: A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

100-YEAR FLOOD: (see Article VII Floodplain Development Section 702).

OPEN-SPACE RESIDENTIAL DEVELOPMENT: A form of residential subdivision that permits dwelling units to be located on sites or lots within a single tract with dimensions, frontages and setbacks reduced from conventional sizes, provided the density of the tract as a whole shall not be greater than the density allowed by the zone under existing regulations and the remaining open land is devoted to common open space. Open-space residential development may include manufactured housing where permitted or allowed by special exception.

PARKING SPACE, OFF-STREET: For the purpose of this Ordinance, an off-street parking space shall consist of a space with dimensions nine (9) feet by nineteen (19) feet exclusive of properly related access to a public street or alley and maneuvering room and shall meet all requirements as imposed by this Ordinance.

PARKING FACILITY: Required off-street parking areas for three or more automobiles.

PARKING FACILITY, OFF-SITE: Off-street parking area on land other than the related use.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PICKUP COACHES (CAMPERS): A constructed unit designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation purposes.

PLAT: A map showing proposed layout of streets and/or lots to scale.

PRIVATE CLUB (PRIVATE LODGE): Structures, facilities and grounds owned or operated by a private or fraternal organization for use by its members and guests.

PROPERTY OWNER: The owner of record.

PRIMARY SURFACE: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 802 of this Ordinance. The elevation at any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

PRINCIPAL BUSINESS PURPOSE: A principal business purpose shall be deemed to exist, for the purpose of regulating sexually-oriented businesses, if ten percent (10%) or more of the gross floor area of a business is devoted to the sale, display, depiction, or expression of "specified sexual activities," "specified anatomical areas," or instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

PUBLIC STREET: A vehicular traveled way which the town or state has the duty to maintain regularly. A Class V or better highway.

RECREATION, INDOOR: Indoor recreation activities shall include but not be limited to bowling, tennis, squash, racquetball, ice skating, roller skating, billiards, and video games.

RECREATION, OUTDOOR: Outdoor recreation activities which shall include but not be limited to such facilities as outdoor tennis courts, swimming pool, golf courses, play fields, and similar uses. No buildings shall be allowed except for the necessary related uses such as restrooms and maintenance facilities. In all cases, any building shall be treated as a Special Exception.

RECREATIONAL VEHICLE: (see Article VII Floodplain Development Section 702).

REGULATORY FLOODWAY: (see Article VII Floodplain Development Section 702).

RESIDENTIAL INSTITUTION: Residential institution shall include home for the elderly, orphanage, rest home, extended care facility, and similar types of group living accommodations that provide services for the residents in a congregate fashion such as but not limited to common meals and health care.

RESIDENTIAL USE: Includes single-family dwelling, two-family dwelling, multiple-unit dwelling, and manufactured housing.

RESTAURANT: A retail establishment where food and drink are prepared, served and consumed primarily within the principal building; and where no ordering and pick up of food takes place from a motor vehicle. Restaurants include cafeterias, lunchrooms, fast food restaurants (without drive-through service) and similar establishments, and establishments that meet the definition of a restaurant as specified in RSA 175:1 LIX. (Adopted by Warrant Article 3/10/09).

RETAIL SALES: Include shop and store for the sale of retail goods, personal service shop and department store, and shall exclude any drive-in service, free-standing retail stand, gasoline service and motor vehicle repair services, new and used car sales and service, trailer and mobile home sales and service and commercial services.

ROOMING HOUSE: Any residential dwelling (other than a hotel or motel) in which living accommodations without individual kitchen facilities are rented to at least five but not more than 16 non-transient guests. A boarding or lodging house shall be deemed a rooming house.

RUNWAY: A defined area on an airport prepared for landing and take off of aircraft along its length.

SEXUAL CONDUCT SUBSTANTIAL PORTION OF THE TOTAL PRESENTATION TIME: Occurring no more than seven (7) days within a fifty-six (56) consecutive day period.

SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore or video store, adult cabaret, adult motion picture theater or adult theater.

SIGN: Any device, structure, fixture or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or service. For the purposes of this Ordinance the word "sign" does not include the flag, pennant, or insignia or any nation, group of nations, state, city, or other governmental units. **See Section 408.**

SPECIAL EXCEPTION: A use of a building or lot which may not otherwise be permitted under this Ordinance except upon application to the Board of Adjustment and subject to the approval of that

Board, and only in cases where the words “special exception” on this Ordinance pertain, and in accordance with the provisions of Article XII, Board of Adjustment.

SPECIAL FLOOD HAZARD AREA: (see Article VII Floodplain Development Section 702).

SPECIFIED ANATOMICAL AREA: Human genitals and anus, female breasts.

SPECIFIED SEXUAL ACTIVITIES: Means and includes any of the following:

- a) Human masturbation, sexual intercourse, oral copulation or sodomy, actual simulated, whether alone or between members of the same or opposite sex or between humans and animals.
- b) Fondling or erotic touching of human genitals, anus, pubic region, buttocks, or female breasts.
- c) Excretory functions, flagellation or torture as part of or in conjunction with any of the activities set forth in a. and b. above.

STREET LINE: Right-of-way line of a street as dedicated by a deed of record. Where the width of the street is not established, the street line shall be considered to be twenty-five (25) feet from the centerline of the street pavement.

STRUCTURE, ACCESSORY: Anything constructed or erected with a fixed location on the ground, which is subordinate to and detached from but located on the same lot as the principal structure, the use of which is customarily incidental and secondary to that of the principal structure. Accessory structures shall include, but not be limited to, fences over four feet high, pools and shed.

STRUCTURE, PRINCIPAL: Anything constructed or erected with a fixed location on the ground where the primary use of the lot is conducted.

SUBSTANTIAL DAMAGE: (see Article VII Floodplain Development Section 702).

SUBSTANTIAL IMPROVEMENT: (see Article VII Floodplain Development Section 702).

THEATER: A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performing arts. Such establishments may include related services such as food and beverage sales and other concessions.

TRACT: An area, parcel, site, piece of land, or property, which is the subject of a development proposal and application.

THEATER: A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performing arts. Such establishments may include related services such as food and beverage sales and other concessions

TOURIST HOME: A building, or part thereof, other than a motel or hotel, where sleeping accommodations are provided for transient guests, with or without meals, and which also owner occupied.

TRANSITIONAL SURFACES: These surfaces extend at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

TRAVEL TRAILER: A vehicular, portable, non-self-propelled structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, having a body width not exceeding 8 feet, and body length not exceeding 32 feet.

TREE: Any object of natural growth.

UNDEVELOPABLE LAND AREA: The undevelopable land area is that portion of the tract which is comprised of wetlands, slopes in excess of 25% and land within the 75-foot building setback area of the Environmentally Sensitive Zone as described in the Article VII, Floodplain Development.

USE, PERMITTED: Use specifically allowed in the district, excludes illegal uses and non-conforming uses.

UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

VARIANCE: Such departure from the terms of this Ordinance as the Board of Adjustment, upon appeal in specific cases, is empowered to authorize under the terms of Article XII, Board of Adjustment, and applicable statutes of the State of New Hampshire.

VEHICULAR SALES AND REPAIR: Storage and display for sale of more than two motor vehicles or any type of trailer, provided the trailer is unoccupied, or where repair or body work are performed on motor vehicles or trailers, including Auto Service Stations (see sect 411.2, parking requirements). Vehicle sales include motor vehicle retail or wholesale sales.

VISUAL RUNWAY: A runway intended solely for the operation of aircraft using visual approach procedures.

WATER SURFACE: (see Article VII Floodplain Development Section 702).

WETLANDS: Wetlands means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. As adopted by reference to RSA 48-A:2, X, which will incorporate any future Statute changes.

WHOLESALE BUSINESS: Includes warehouse, wholesale establishment, discount house, bulk storage, and bulk sales outlet.

YARD: Space on a lot not occupied with a building or structure.

YARD, FRONT OR SETBACK: Yard between the front lot line and the closest point of the structure. The depth of the front yard shall be measured from the street line to the closest point of the structure.

YARD, REAR: Yard between the rear lot line and the closest point of the structure. The depth of the rear yard shall be measured from the rear lot line to the closest point of the structure.

YARD, SIDE: Yard between the principal building or accessory building and a side lot line, and extending through from the front yard to the rear yard.

ARTICLE III: ZONES, MAPS AND REGULATIONS

Section 301 Zones

The Town of Plymouth is divided into the following zones as shown on the official zoning map on file with the Town Clerk.

SFR – Single-Family Residential

MFR – Multi-Family Residential

A – Agricultural

CI – Civic/Institutional

VC – Village Commercial

HC – Highway Commercial

ICD – Industrial and Commercial Development

F – Floodplain Development (overlay) (see Article VII Section 701)

ES – Environmentally Sensitive (overlay) (see Article VII Section 709)

AR – Airport (overlay) (see Article VIII)

Section 302 Zoning Map

The zones as established in Section 301 and described in Article XII are shown on the official zoning map and the Flood Insurance Rate Map and Flood Boundary and Floodway maps, Town of Plymouth, New Hampshire dated May 3, 1982 on file in the office of the Town Clerk. The Floodplain zone applies to any land located in any other zone. The zoning map is contained in Appendix A. The revised Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway maps (PB/Fw) as shown in the State of New Hampshire Department of Transportation FEMA Floodway Boundary Map Revision study for the town of Plymouth and Holderness identified as I-93 improvements for exits 25 and 26 project numbers IM-93-2(143)80; IM-93-2(145)80; and IM-93-2(147)80 dated January 1993 as prepared by Bettigole Andrews & Clark, Inc. Consulting Engineers Concord, NH, when officially adopted by the Federal Emergency Management Agency (FEMA), shall be incorporated into the official zoning map of the Town of Plymouth. The dates of the maps so produced shall be inserted on the official incorporated into this Ordinance where necessary.

Section 303 District Boundaries

A zone boundary shown on the zoning maps as approximately following the center line of a street, a shoreline of a body of water, shall be construed as following such line. When zoning boundaries are created using a specific distance from a street, the distance is measured from the closest edge of the street right-of-way. If the zone classification of any land is in question, it shall be deemed to be in the most restricted adjoining zone.

Section 304 Zone Objectives and Land-Use Controls

The following subsection establishes the regulations that apply in each zone. Any use designated as a “permitted use” may be commenced in the particular zone providing the standards established by this Ordinance are met. Unless a variance, special exception or action on an appeal from the administrative decision is required, the necessary permit may be issued by the Selectmen or their designee. Any use designated as a “special exception” may be commenced in the particular district only after approval by the Board of Adjustment. If a specific use is not listed, then it is not allowed unless the Planning Board finds the use is sufficiently similar to an enumerated permitted or special exception use. General provisions pertaining to all zones are described in Article IV. In the event of

any conflict between restrictions contained in Article VII, Floodplain Development and Article VIII, Airport and the restrictions of any underlying zone, the more restrictive shall apply.

The following chart lists those uses allowed in each zone. Those uses designed with a “P” in the various zones are permitted and allowed by right. Those uses designed “SE” are allowed only as a special exception as granted by the Zoning Board of Adjustment. A dash indicates that the use is neither permitted, nor allowed by special exception in the corresponding zone.

USES	ZONE						
	SRF	MFR	A	CI	VC	HC	ICD
Accessory Dwelling Unit	P ²	P ²	P ²				
Cluster Residential Development	P	P	P	P	P ¹	SE	SE
Continuing Care Retirement Community	-	-	P	-	-	-	-
Manufactured Housing	-	-	P	-	SE ¹	SE	SE
Multiple Unit Dwelling of 3 to 6 Units	-	SE	SE	SE	P ¹	SE	SE
Residential Institution	-	SE	SE	P	SE ¹	P	P
Rooming House	-	SE	SE	SE	SE ¹	SE	SE
Single-Family Dwelling	P	P	P	P	P ¹	SE	SE
Two-Family Dwelling	SE	P	P	P	P ¹	SE	SE

¹ See Section 304.1

² See Section 416

Uses	Zone						
	SFR	MFR	A	CI	VC	HC	ICD
MUNICIPAL							
Civic Use	-	-	P	P	SE	SE	SE
Civic Use limited to Public Safety	-	SE	P	P	SE	P	P
Civic Use limited to Public Safety and Recreation	SE	-	P	P	SE	SE	SE
Civic Use limited to Office, Public Safety, Recreation, Parking and Service	-	-	P	P	P	SE	SE
Library	-	-	SE	P	SE	SE	SE
COMMERCIAL							
Auto Service Station	-	-	P	-	P	P	P
Bank	-	-	P	P	P	P	P
Bar/Tavern/Nightclub ²	-	-	-	-	-	-	-
Childcare Center	SE	SE	P	P	P	P	SE
Commercial Service	-	-	P	SE	P	P	P
Drive-through Restaurant	-	-	P	-	-	P	P
Drive-through Service	-	-	P	-	SE	P	P
Fuel Storage	-	-	SE	-	SE	SE	SE
Funeral Establishment	-	-	SE	P	SE	SE	SE
Hotel/Motel	-	-	P	-	P	P	P
Outdoor Recreation	-	-	P	SE	SE	P	P
Indoor Recreation	-	-	P	-	P	P	P
Junkyard	-	-	SE	-	SE	SE	SE
Lumberyard	-	-	SE	-	SE	SE	SE
Office	-	SE	P	P	P	P	P
Personal Wireless Communication Facilities	P ³						
Printing and Publishing	-	-	SE	-	SE	P	P
Private Club	-	-	SE	SE	P	P	P
Restaurant	-	-	P	SE	P	P	P
Retail Sales	-	-	P	SE	P	P	P
Sexually-Oriented Business (must meet additional requirements of Section 415)	-	-	SE	-	-	-	-
Theater	-	-	P	P	P	P	P
Tourist Home	-	-	P	-	P	P	P
Truck Terminal	-	-	SE	-	SE	SE	SE
Vehicular Sales and Repair	-	-	P	-	SE	P	P
Warehouse	-	-	SE	-	SE	SE	P
Wholesale Business	-	-	SE	-	SE	P	P

²Adopted by Warrant Article 3/10/09

³Allowed in all zones provided the provisions of Article IX are met

Uses	Zone						
	SFR	MFR	A	CI	VC	HC	ICD
INSTITUTIONAL							
Church	-	-	P	P	P	P	P
Education	-	-	SE	P	SE	SE	SE
Hospital	-	-	SE	P	SE	SE	SE
Medical Center	-	-	SE	P	SE	SE	SE
Research Laboratory	-	-	SE	SE	SE	SE	SE
AGRICULTURAL	SFR	MFR	A	CI	VC	HC	ICD
Agriculture	-	-	P	-	SE	SE	SE
Forestry	-	-	P	-	SE	SE	SE
INDUSTRIAL	SFR	MFR	A	CI	VC	HC	ICD
Industry	-	-	SE	-	SE	SE	P
MISCELLANEOUS	SFR	MFR	A	CI	VC	HC	ICD
Accessory buildings in excess of three (3)	SE	SE	SE	SE	SE	SE	SE
More than one main structure	SE	SE	SE	SE	SE	SE	SE
Parking Facility for less than 125% of the minimum number of parking spaces required by Section 411.2	-	SE	SE	SE	SE	P	P
Parking Facility for 125% or more of the minimum number of parking spaces required by Section 411.2	-	-	-	SE	SE	SE	SE
Off-Site Parking Facility	-	SE	SE	SE	SE	SE	SE
Accessory structure in front, side or rear setback area	SE	SE	SE	SE	SE	SE	SE

Section 304 Area Dimensions	Zone						
	SFR	MFR	A	CI	VC	HC	ICD
Minimum frontage (in feet) for:							
-lots tied into a municipal or private sewage disposal system	100	100	100	100	50	100	100
-lots with on-site septic disposal	150	150	150	150	50	150	150
-Backlots approved under Article VIII, Section R of Subdivision Regulations	50	50	50	50	50	50	50
Minimum yards (setbacks) in feet	SFR	MFR	A	CI	VC	HC	ICD
-front	30	30	30	30	150 by SE	30	30
-side	15	15	15	15	00	15	15
-rear	15	15	15	15	100 by SE	15	15

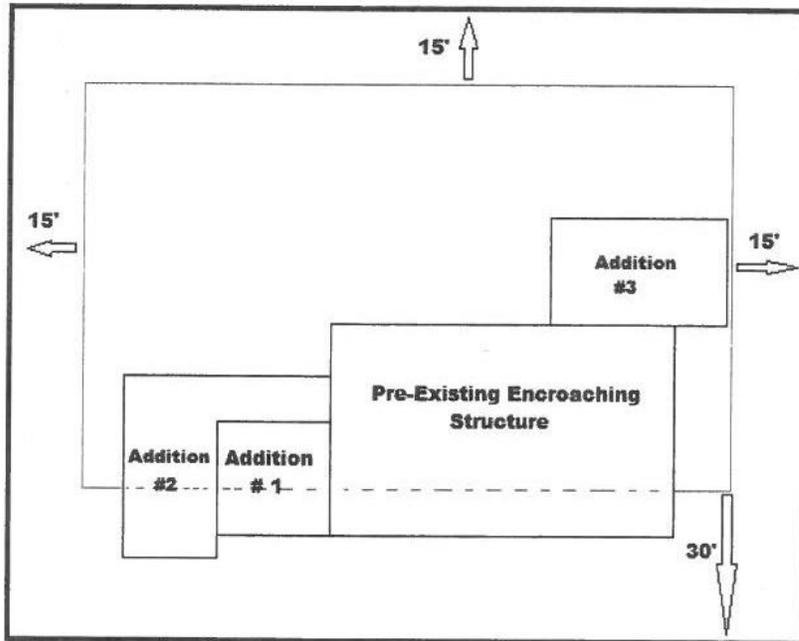
Residential Setbacks

All legal, pre-existing, non-conforming structures (residences) in place at the time of adoption of this Amendment shall be subject to the following:

- For the Front (street) setback ONLY:

The line of closest encroachment into the front setback of such a residence shall be considered the front setback line, by default of that occupancy. Per the diagram:

- Additions to structures that hold to that line will require a Special Exception (Addition #1).
- Additions encroaching further beyond that setback line will require a Variance (Addition #2).
- Additions within the setback area will continue to require only a Building Permit (Addition #3).



Uses	Zone						
Minimum yards (in feet) on Rented Lots in Manufactured Housing Parks:							
-front	-	-	25	-	25	25	25
-side	-	-	12	-	12	12	12
-rear	-	-	12	-	12	12	12
Minimum lot size (in acres per dwelling unit) for property served by:							
-municipal sewage disposal	0.5	0.5	1.0/.5**	0.5	0	0.5	0.5
-private sewage disposal and treatment system designed in accordance with appropriate state standards	0.5	0.5	1.0/.5**	0.5	0	0.5	0.5
-an on-site septic disposal system	1	1	1	1	0	1	1
			** See below				

**One (1) acre is required unless a Cluster Residential Development (see Article V) is used in which case the lot size shall be calculated based on half (1/2) acre lot size.

Minimum lot size for multi-unit dwellings of three (3) to six (6) unit (in square feet):							
Number of Units	SFR	MFR	A	CI	VC	HC	ICD
(for property served by municipal sewage disposal or a private sewage disposal) and treatment system designed in accordance with appropriate state standards)							
Three (3)	N/A	46,060	46,060	46,060	0	46,060	46,060
Four (4)	N/A	48,560	48,560	48,560	0	48,560	48,560
Five (5)	N/A	51,060	51,060	51,060	0	51,060	51,060
Six (6)	N/A	53,560	53,560	53,560	0	53,560	53,560
(for property with an on-site septic disposal system)							
Three (3)	N/A	89,620	89,620	89,620	0	89,620	89,620
Four (4)	N/A	92,120	92,120	92,120	0	92,120	92,120
Five (5)	N/A	94,620	94,620	94,620	0	92,620	92,620
Six (6)	N/A	97,120	97,120	97,120	0	97,120	97,120
<i>(N/A = Not allowed as a permitted use nor allowed by SE)</i>							

	SFR	MFR	A	CI	VC	HC	ICD
Maximum lot coverage by impervious surfaces (percentage of total lot area):	75	75	75	75	100	75	75

304.1 Residential Use in Village Commercial Zone

In the Village Commercial Zone, residential uses are permitted above or below the street level only. Residential uses on the street level are permitted only by special exception in accordance with Section 1204.2 and Section 1204.3

304.2 Commercial Co-location

In the ICD, A and HC Zones, co-location (siting) of more than one main (primary) commercial structure on a single building pad on a single parcel is Permitted, providing that all other Zoning requirements (legal parcel acreage, exterior lot-line setbacks, parking spaces, impervious surface coverage, driveway access) are met.

- The businesses occupying the parcel do not need to be related by owner or type; the parcel and pad itself must be owned by a single entity, including partnerships.
- Interior setbacks, access and circulation between buildings shall meet Life/Safety minimums, per the Plymouth Fire Dept.
- All main structures shall be subject to Site Plan Review, including their relationship to the shared amenities and storm water drainage.

ARTICLE IV: GENERAL PROVISIONS

The following provisions shall apply to all zones except where listed:

Section 401 Lots and Yards

401.1 New Structures

In every zone only one main residential structure and three accessory buildings or uses customarily incidental to it shall be allowed on a lot without a Special Exception from the Board of Adjustment. See Commercial Co-location,

401.2 Existing Lots of Record

A building may be constructed on any lot of record in any zone if said lot is less than the minimum area required providing:

- a) No structure shall be constructed on any non-conforming lot if the owner of said lot owns any adjacent vacant land, which if combined with the non-conforming lot would create a conforming lot.
- b) No structure shall be constructed on a non-conforming lot unless it shall have a front yard conforming to the minimums required for the zone.
- c) No structure shall be constructed on a non-conforming lot unless it shall have a minimum side yard of fifteen feet on either side, except no side yard shall be less than ten feet.

401.3 Minimum Lot Frontage

For any main use the minimum lot frontage shall be as specified in Section 304, except that lots in open space developments or lots on cul-de-sacs may be those specified in Section 504.

401.4 Yard Regulations

- a) Any lot line contiguous to a street is deemed to be a front line; a lot fronting on any two streets shall be deemed to have two front lot lines and two side lot lines; a lot fronting on three streets shall be deemed to have three front lot lines and one side lot line for the purpose of determining setback.
- b) Notwithstanding provisions for front yards elsewhere in these regulations, on streets with less than 50 foot rights-of-way, the front yard requirement shall be measured from the center line of the existing roadway and 25 feet shall be added to the front yard requirement.
- c) No structure may occupy any part of a required front yard, side yard or rear yard.

401.5 Building Coverage, Open Porches, Carports, and Garages

In determining the percentage of building coverage of a lot or the size of yards, porches or carports open at the sides but roofed, and all principal and accessory buildings shall be included.

401.6 Reduction of Lot Area

No lot shall be so reduced in area that the area, yards, lot width, frontage, coverage or other requirements of these regulations shall be smaller than herein prescribed for each district. The provisions of this section shall not apply when part of a lot is taken for public purposes.

401.7 Required Area of Yards

Space required under these regulations to satisfy area, yard or other open space requirements in relation to one building shall not be counted as part of a required open space for any other building.

401.8 Location of Driveways

All driveways are to be located at least seventy-five feet from a street line intersection for all uses.

401.9 Corner Lots

Lots, which abut on more than one street, shall provide the required frontage along every street.

401.10 Minimum Lot Size

For any use, the minimum lot size specified in each zone, except Village Commercial, shall be the same as the minimum lot size specified for one dwelling unit in Section 304.

Section 402 Height Regulations and Exceptions

- a) The height of any building shall not be greater than 35 feet as measured from the average finished grade of the land surrounding the structure.
- b) Flagpoles located on a roof or in any required yard may extend above the height limit.
- c) Chimneys, spires, towers, stage houses, lightning rods, or like superstructures not used for human occupancy may extend above the height limit located on a structure of main use. Freestanding chimneys or towers may be permitted only as a Special Exception by the Board of Adjustment.
- d) Radio or TV antenna for private, non-commercial reception may be located on the roof or in the rear yard of a structure of main use, but not in the required front yard.

Section 403 Temporary Uses and Structures

Temporary permits may be issued by the Selectmen for a period not exceeding one year for uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove such structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period of one year as long as construction is active. These uses shall be limited to manufactured homes, trailers, or portable structures used for residential, office, storage, and locker purposes.

Section 404 Abandonment of Structures

404.1 Within six months after work on an excavation for a building has begun, the excavation thus remaining shall be covered (such as with building construction) or filled to normal grade by the owner.

404.2 Within six months after a permanent or temporary building or structure has been destroyed, demolished or abandoned, all structural materials shall be removed from the site, and the excavation thus remaining shall be covered over (such as with building construction) or filled to the normal grade by the owner.

404.3 Further, no construction in process of completion or demolition and no ruins from fire or other casualty shall be abandoned. Such structure shall be considered to have been abandoned when work to remedy the improper condition shall not have been initiated within 90 days after the occasion of the casualty, or if the initiated work shall have been discontinued with the owner's consent for 30 or more consecutive days or for more than 30 days out of 60 days. Each day's abandonment shall be considered as a separate violation of the Ordinance. The above periods of time may be extended by the Board of Adjustment, upon application of the owner, for good cause shown.

Section 405 Non-Conforming Uses

405.1 Existing Use

Any lawful building or use of a building or premises or parts thereof in existence at the time of the adoption of this Ordinance, or of any amendment hereto, may be continued although such building or use does not comply to the provisions of this Ordinance.

405.2 Change and Expansion of Non-Conforming Uses

Unless a variance is obtained, no non-conforming use shall be changed to another non-conforming use and no such non-conforming use shall be enlarged or extended.

405.3 Change of Non-Complying Structures

A non-complying structure may be enlarged or extended provided the enlargement or expansion complies with the provisions of this Ordinance. Any other enlargement or extension shall not take place unless a variance is obtained.

405.4 Change or Expansion of Use in a Non-Complying Structure

A permitted use in a non-complying structure may be expanded or changed to another permitted use provided that all provisions of the Zoning Ordinance and other town regulations are met.

405.5 Change of Non-Conforming Use

A non-conforming use, if changed to a use permitted in a zone in which it is located for a period of three months or more, shall not be changed back to a non-conforming use.

405.6 Abandonment of Non-Conforming Use

A non-conforming use shall be considered to be abandoned if the use has been discontinued for a period of one year. No abandoned non-conforming use may be resumed.

405.7 Damage by Fire of Non-Conforming Use

If the structure housing a non-conforming use is damaged by fire, explosion, or other catastrophe, the structure may be restored and the non-conforming use may be resumed providing the structure is not greater in volume or floor space than the original structure and the application for permit to build and initiation of construction to restore the non-conforming use occurs within one year of the date of damage. The Selectmen are authorized to issue a permit to build for the rebuilding of the structure and restoration of such non-conforming use providing the foregoing conditions are met.

Section 406 Lots in Two Zones

- A. Where a zone boundary line divides a lot of record at the time such line is adopted, the lot shall conform to the regulations for the more restricted zone, provided the lot has frontage on a street in the more restricted zone.
- B. Where a zone boundary line divides a lot at the time such line is adopted, the regulations for the less restricted part of such lot shall not extend more than thirty feet (one hundred feet in rural districts) into the more restricted part, provided the lot has frontage on a street in the less restricted zone.

Section 407 General Nuisance

No person shall allow, cause to be allowed, nor permit any use of land within the boundaries of the Town of Plymouth to be used in any manner that would be considered noxious use of said land.

Section 408 Signs

408.1 Purpose

The purpose of this article is to regulate the erection of signs for the purposes of protecting public safety. These regulations allow for the presentation of information and advertising in an orderly, effective, aesthetic and safe manner. Restrictions on type, number, location and size of signs protect the public from hazardous and distracting displays, maximize traffic safety, and create an attractive environment, which is conducive to business, industry, and tourism. Further, the purpose of this article

is also to preserve scenic vistas, discourage development from competing with the natural environment, to promote the character of the town as a rural and historic community, and to protect residential areas from intrusive commercial activity. These purposes are consistent with the goals of the Town's Master Plan.

408.2 Definitions

BANNER: A sign made of fabric or any nonrigid material with no enclosing framework.

BILLBOARD: A non-point-of-sale or off-premise sign, which advertises a business, organization, event, person, place or thing.

BULLETIN BOARD: Any sign erected for purposes or announcing events or providing other public information, and contains no commercial message.

CANOPY: A rigid or retractable roof-like structure supported by and extending from the facade of a building or a freestanding roof-like structure including fixed and/or retractable window, doorway or walkway awnings.

CHANGEABLE COPY: A sign that is designed so that characters, letter, or illustrations can be changed or rearranged either manually in the field (e.g. reader boards with changeable letters) or automatically on a lamp bank or through mechanical means (e.g. electrical or electronic time and temperature units) without altering the face or the surface of the sign.

CONSTRUCTION SIGNS: A temporary sign identifying an architect, contractor, lender and/or material supplier participating in construction on the property on which the sign is located.

DIRECTIONAL SIGNS: Those signs located at the point of access/egress directing traffic into and out of the site.

DISPLAY AREA: The display surface (copy area) encompassed within any regular geometric figure, which would enclose all parts of the sign. On a freestanding sign, such area shall be calculated as the maximum projected area of the sign. If any sign is designed so that any portion of the supporting structure is an integral part of the message or advertisement conveyed by the sign, the display area shall be deemed to include such portion of the supporting structure.

FLAGS: Official flags of governmental jurisdictions, including flags indicating weather conditions and flags, which are emblems of on-premises organizations.

FREESTANDING SIGN: A sign supported upon the ground by poles or braces and not attached to any building.

IDENTIFICATION SIGN: A sign whose copy is limited to the commercial name and address of a building, institution, or person and/or to the activity or occupation being identified.

LEGAL NON-CONFORMING SIGN: (1) a sign which was erected legally but which does not comply with subsequently enacted sign restriction and regulations; (2) a sign which does not conform to the sign Ordinance requirements, but for which a special permit has been issued.

NAMEPLATE: A nonelectric on-premise residential identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

NONACCESSORY SIGN: Any sign that does not advertise the name, address, business, and/or products of the site on which the sign is located.

PENNANT: Any lightweight plastic, fabric, or other materials, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

PORTABLE SIGN: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons or other gas-filled figures used as signs; sidewalk or curb signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is licensed, registered and inspected, and regularly and customarily used to transport persons or property for the business.

POSTER: Any temporary, non-durable sign, whether handmade or professionally printed, that advertises a name, business, service, event, and/or product.

PROJECTING SIGN: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

REAL ESTATE SIGN: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

ROOF SIGN: Any sign erected over or on the roof of a building

ROTATING SIGN: A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

SIGN: Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or service. For the purposes of this Ordinance the word "sign" does not include the flag, pennant, or insignia or any nation, group of nations, state, city, or other governmental unit.

TEMPORARY SIGN: A sign not constructed or intended for long-term use.

WALL SIGN: A sign painted on or attached to and erected parallel to the face of, or erected and confined within the limits of the outside wall of any building and supported by such wall or building and which displays only one advertising surface.

408.3 Prohibited Signs and Materials

The following types of signs are expressly prohibited in all districts unless otherwise provided for in this article.

- a) Animated, moving, flashing, or intensely lighted signs and signs that emit sound, or visible matter (e.g. smoke, bubbles, water).
- b) Portable signs except as provided in Section 408.5 D. No vehicle, including parts thereof (e.g. trailers and other accessories) shall be used as a sign except for a licensed, registered and inspected vehicle that is regularly and customarily used to transport persons or property.
- c) Signs located on public property or over or across any public street or right-of-way, or which block from view any traffic or street sign or traffic signal. Special permission for such signs may be granted by the Board of Selectman where a public benefit can be associated.
- d) Searchlights and rotating signs.
- e) Signs which imitate, and may be confused with, an official traffic control sign or signal, or an emergency or road equipment vehicle.

- f) A fence or any wall that is not structurally a part of a building may not be used for a sign except to identify a residence or a residential structure.
- g) In accordance with RSA 236:75, it shall be unlawful to affix, attach, or display any advertisement upon any object of nature, utility pole, telephone booth, or highway sign.
- h) Signs or any advertising material affixed to any public property including, but not limited to, trash receptacles.
- i) As reflected in the purpose of the Sign Ordinance (Section 408.1), in order to reflect an attractive environment, all signs in the Village Commercial Zone, excluding window signs, must be made from or resemble materials such as wood, metal, stone, or cloth and may be painted.

408.4 Signs Permitted by Special Exception

The following types of signs are allowed by Special Exception in accordance with the following table and subject to the requirements of Section 408.5

SIGN TYPE	ZONING DISTRICT		
	HC, ICD, A	VC	CI, SFR, MFR
Billboard and non-accessory signs	Special Exception	Not permitted	Not permitted
Roof signs	Special Exception	Not permitted	Not permitted
Internally illuminated signs, not including neon signs	Permitted	Not permitted	Not permitted
Second entry sign	n/a	1 additional wall or projecting sign per business at business entry not facing a street, maximum 8 square feet and 10 feet in height	n/a
Existing nonconforming sign	n/a	A nonconforming sign shall lose its nonconforming status and shall be removed in the event that the signed business ceases to operate at that location for any period of time.	

408.5 Permitted Signs

The following signs are allowed with a duly authorized Sign Permit.

- a) Signs are permitted within all districts in accordance with the following table and as restricted by the following subparagraphs.

SIGN TYPE	ZONING DISTRICT		
	HC, ICD, A	VC	CI, SFR, MFR
Freestanding Signs			
Maximum number permitted per lot	1	1 by Special Exception	1
Minimum setback (front, side and rear yard)	20' (see also 408.5 1 b)	5' <i>recommended</i>	15' (see also 408.5 1 b)
Maximum height	16'	10' <i>recommended</i>	6'
Maximum display area per side	100 SF	48 SF <i>recommended</i>	3 SF
Maximum aggregate display area	200 SF	96 SF <i>recommended</i>	6 SF
Wall Signs			
Maximum display area if used individually (in square feet per linear feet of building side on which the sign is displayed)	3	1.5 but not to exceed 20 square feet per business, and not to exceed 100 square feet in total	No permitted
Maximum display area if used in combination with freestanding, projecting or canopy signs (in square feet per linear feet of building side on which the sign is displayed)	2	1.0, but not exceed 20 square feet per business, and not to exceed 100 square feet in total	Not permitted
Maximum number per business per street	n/a	1	n/a
Canopy Signs			
Use canopy or projecting signs, not both...			
Maximum height	18'	18'	Not permitted
Maximum advertising display area (as percentage of each canopy facade)	30%	20%	Not permitted
Maximum number of facades with signs	n/a	2	n/a
Projecting Signs			
Use canopy of projecting signs, not both...			
Maximum number per business	1	1	n/a
Maximum number per lot	n/a	n/a	1
Maximum advertising display area	8 square feet	8 square feet	1 square foot
Maximum projection	6'	6'	2'
Maximum height	12'	10' or higher by special exception	6'

1) Freestanding Signs

- a) The maximum portion of the display area of a freestanding sign dedicated to changeable copy is twenty (20) percent.
- b) The minimum setback for freestanding signs in the HC, ICD, SFR or MFR districts may be reduced to ten (10) feet provided that the freestanding sign advertising display area is reduced by at least fifteen (15) percent. The Board of Selectmen may approve such reduction by a duly issued Building Permit.
- c) A Master Sign Plan can be submitted, reviewed and approved by the Planning Board as part of the Site Plan Review Process. The Master Sign Plan can exempt applicant from the existing Freestanding Sign requirements provided the proposed signage meets Section 408.1 – Purpose, as determined by the Planning Board. The Master Sign Plan shall include the following information: site dimensions and layout, proposed placement of the signage, square footage of each sign panel and total square footage of the sign(s), materials that the sign will be made of, total height of the sign, clearance height from the ground to the bottom of the sign. Ideally, an architectural rendering is recommended that will indicate how the sign(s) will relate to the existing site conditions such as existing buildings on the site and abutting the site, how the signs will appear from the road(s), and how the site will relate to existing topography. (Adopted 3/10/09 by Warrant Article).

2) Wall Signs

- a) Linear building frontage refers to the building frontage facing on each public right-of-way (excluding service streets and alleys) or interior courtyard/parking area.
- b) Lots fronting on more than one public right-of-way may not combine allowable square feet for one frontage with that of another frontage for the purpose of placing the combined area of signs on one frontage.
- c) The maximum permitted area for wall signs may be increased by ten (10) percent provided that the freestanding sign advertising display area is reduced by at least fifteen (15) percent. The Board of Selectmen may approve such increase by a duly issued Land Use Permit.
 - i. Within all districts, signs or nameplates advertising those uses permitted by the respective zones are permitted within the required setback areas as follows:
 - a) For multi-family or multi-unit (multi meaning greater than two) structures and for non-residential uses, one (1) identification sign for which the display area shall not exceed six (6) square feet.
 - b) Such signs shall be walls signs, or freestanding signs no greater than six (6) feet in height.
 - c) No such signs shall be internally illuminated.
 - d) One (1) freestanding identification sign at each entrance to a subdivision or office/industrial park development with a maximum display area of twenty (20) square feet. These signs shall be less than six (6) feet in height. Such sign shall not be situated in the public right-of-way.

3) Temporary Signs

Posters, pennants and banners, which describe a special sale, promotion or public benefit activity on the property, are permitted for a period of no more than thirty (30) days. The total area of an individual banner shall not exceed thirty-two (32) square feet

4) Portable Signs

Two (2) portable signs per business are permitted for a period of no more than thirty (30) days upon the opening of a new business. In the VC, thereafter, only one portable sign shall be allowed per business that meets the following criteria:

- a) No sign shall be permitted on a town sidewalk or public right-of-way unless a five (5) foot, clear passageway can be maintained at all times.
- b) A hold-harmless agreement shall be filed with the Code Enforcement Officer to relieve the Town of Plymouth from bodily injury and property damage liability.
- c) Portable signs shall only be displayed during business hours.
- d) Portable signs shall not be larger than 30" in width nor 48" in height.

5) Directional Signs

One (1) such sign is permitted near each point of ingress/egress. The area of each sign may not exceed six (6) square feet.

408.6 Exempt Signs

The following signs are allowed without a Land Use Permit:

- A. One (1) Sign when offering property for sale, lease, rent or a notice of "Open House". real estate "For Sale", "For Rent", "For Lease", or similar type sign is permitted, provided that:
 - 1. The size of the sign shall not exceed four (4) square feet in the SFR and MFR districts, nor twenty (20) square feet in all other districts.
 - 2. The sign advertises only the premises on which it is located and is removed within seven (7) days after completion of the sale or rental.
 - 3. Two (2) such signs will be allowed.
- B. Signs, when the building or property has ongoing construction or renovation:
 - 1. The total area of all signs shall not exceed twenty (20) square feet per lot in the SFR, MFR, and A districts, nor thirty-two (32) square feet in all other districts.
 - 2. The signs may be placed on the premises during actual construction and must be removed upon completion of the construction.
- C. Signs, when an election is upcoming, provided that they are in compliance with all applicable state laws, are permitted for a period of forty-five (45) days prior to election and shall be removed within ten (10) days after the election, except when the election is a state primary and the sign concerns a candidate who is a winner in the primary.
- D. Nameplates for residential uses, but not exceeding four (4) square feet per single-family residence or eight (8) square feet per duplex, shall be permitted.
- E. Informational signs indicating property owners' desires with respect to property rights, e.g. "No Trespassing", "no Hunting" or "Snowmobiling Permitted", shall not exceed three (3) square feet in size and shall comply with all applicable state laws.
- F. Bulletin boards not larger than fifteen (15) square feet shall be permitted on the premises of the sponsoring institution or public body.

408.7 Uniformity

In order to improve the aesthetics and commercial value of a particular lot, all permanent signs on the lot shall be of uniform size and shape, with the exception of trademarks and logos.

408.8 Non-Conforming Signs

- A. A sign shall immediately lose its legal non-conforming status when:
 - I. The sign is enlarged or altered such that its effect is more intensive and/or obtrusive.
 - II. The sign is relocated.
 - III. The sign advertises or calls attention to products, businesses or activities that have not been carried on or sold at the premises for the past six (6) months.
The sign shall not have been repaired or properly maintained within thirty (30) days after written notice to that effect has been given by the Board of Selectmen.
- B. No sign that was erected in violation of any previously existing sign Ordinance shall, by virtue of adoption of this Ordinance, become legally nonconforming.

408.9 Administration and Enforcement

A Building Permit shall be applied for and received from the Building Inspector, in compliance with Section 1102 in this Ordinance, prior to erecting, installing, creating, replacing, rebuilding, reconstruction or moving any exterior sign. A Building Permit is not necessary for sign repair and maintenance unless the sign or location of the sign is altered or structural changes are made.

In addition to the submission requirements of **Section 1102**, an application for a Building Permit for a sign shall be accompanied by a sketch plan of the site and elevation drawings of the proposed sign, caption of the proposed sign, and such other data as are pertinent to the application.

Any of the following shall be a violation of this Ordinance and shall be subject to the enforcement remedies and penalties provided by this Ordinance and by applicable state law:

- A) To erect, install, create, replace, rebuild, reconstruct or move any sign in a way that is inconsistent with any permit or plan governing such sign or the lot on which the sign is located.
- B) To erect, install, create, replace, rebuild, reconstruct or move any sign requiring a permit without such a permit.
- C) To fail to remove any sign that is erected, installed, created, replaced, rebuilt, reconstructed or moved in violation of this Ordinance, or for which the Land Use Permit has lapsed.
- D) Any and all other violations of this Ordinance.

In accordance with RSA 676:17 and **Section 1104** of this Ordinance, any person, firm or corporation violating any of the provisions of this Ordinance is subject to a fine of up to \$275.00 for each day the violation continues after receiving written notification of the violation.

Section 409 Accessory Building or Use

A building or use subordinate and customarily incidental to the main building or use may be used where the main building is permitted or granted special exception. Accessory structures may be allowed in the required yard (setback) areas of all zones by special exception from the Zoning Board of Adjustment.

Section 410 Essential Services

- a) The replacement of existing facilities (other than buildings) or minor relocation or additions of existing facilities such as streetlights, hydrants, wires or pipes are permitted in all zones.
- b) The installation of new facilities or major relocation of or additions to existing facilities shall require special exception in all zones.

Section 411 Off-Street Parking

411.1 General Provisions

A. Intent of Requirements

To insure the free movement of ordinary public and private traffic in the street at all times, to reduce congestion in the streets and to permit the rapid but safe passage of fire-fighting equipment, as well as other emergency vehicles of all sorts, to facilitate the maneuvering of public emergency equipment in the streets, to facilitate the removal of snow, and for all similar related purposes it is declared to be the intent of this section that all structures and land uses be provided with sufficient associated off-street vehicular parking spaces to meet the reasonable needs of persons making use of the premises.

B. Required Spaces to be shown on Plan

No Land Use Permit nor Site Plan Review approval shall be issued for the erection of a new building, the expansion of an existing building, the change of use of any existing building, or the development or expansion of a land use, unless the plans show the specific location and size of the off-street parking space required to comply with the regulations as set forth in subsection 411.2 and the means of access to such space from public streets. In considering any such plans submitted for approval, the Selectmen and/or Planning Board shall take into account the safety of the proposed parking area relative to vehicular traffic on the public streets and pedestrians on the public sidewalks, as well as the safety and adequacy of the area itself with respect to vehicles and pedestrians making use of it.

C. Existing Structures and Uses

1. The off-street parking requirements set forth in Section 411 shall apply to all buildings and land uses except those:
 - a. in existence at the effective date of this Ordinance;
 - b. or for which land use permits have been approved by the effective date of this Ordinance.
2. If the use of any such existing structure is expanded, extended or intensified, the parking requirements of this section shall apply to the expansion, extension or intensification. If such expansion, extension or intensification results in an increase in the parking requirements of more than 25%, the entire use shall be made to fully comply with the parking requirements as set forth in subsection 411.2.

411.2 Quantity

- A. In all zones, except the Village Commercial Zone, off-street parking spaces shall be provided in accordance with the following schedule:

TYPE OF USE	MINIMUM PARKING SPACES REQUIRED
Single-Family house	2 spaces per dwelling unit
Two-family house	2 spaces per dwelling unit
Duplex house	2 spaces per dwelling unit
Open Space Residential Development	2 spaces per dwelling unit
Residential institution	1 space per residential room
Rooming house	1 space per resident
Office	1 space per 250 square foot of gross floor area
Multi-family dwelling	1.5 spaces per dwelling unit for the first bedroom and .5 spaces for each additional bedroom
Church	1 space per 6 seats
Bank	1 space per 250 square foot of gross floor area
Restaurant	1 space per 4 seats
Theater	1 space per 4 seats
Retail sales	1 space per 250 square foot of gross floor area
Commercial service	1 space per 250 square feet of gross floor area
Indoor/outdoor recreation	1 per 500 square feet of gross floor area with no fixed seating or 1 space per 6 seats
Industry	1 space per two employees + 5% for visitors
Hospital	1.5 spaces per bed
Funeral home	1 space per 6 seats or 1 per 75 square feet of assembly room, whichever is greater
Student residence	1 space per sleeping room or 1 space per two beds, whichever is greater
Private club	1 space per 4 members
Wholesale business	1 space per employee + 1 space per 200 square feet of gross floor area
Auto service station	1 space per 200 square feet in service bays
Other uses	Adequate spaces to accommodate customers, patrons and employees must be provided as determined by the Planning Board under its Site Plan Review procedures

- B. These parking space requirements generally utilize a formula based on the gross floor area (g.f.a.) of a building rather than the public or service area to try and accommodate employee parking needs.

- C. In all zones, new construction of institutional, commercial or industrial uses requiring off-street loading facilities shall provide such facilities so that delivery vehicles are parking off the traveled way.

411.3 Location of Off-Street Parking Facilities

- A. Required off-street parking facilities shall be provided on the same lot or premises with the building or land they serve, except as provided in **Section 1204.3(D)**.
- B. Designed parking spaces or parking facilities may not be within 15 feet of a public street and property line. In Multi-Family Residential and Civic Institutional zones, parking facilities are permitted within 5 feet of a property line by special exception provided that the criteria in **Section 1204.3(E)** are met.

411.4 Quality

- A. Required off-street parking facilities may be enclosed in a structure or may be open, provided that all required parking facilities shall be graded, surfaced, drained, and suitably maintained for parking purposes to the extent necessary to avoid nuisance of dust, erosion, or excessive water flow across public ways and to ensure their reasonable availability for use. In appropriate situations, the Selectmen may require suitable markings to indicate individual parking spaces, maneuvering areas, entrances, and exits. Upon application duly made, the Selectmen shall have the authority to waive the requirement of maintaining for parking purposes any off-street parking space for any appropriate period of time, during which the Selectmen find that the use of the space will be suspended because of an interruption of the use or occupancy of the premises which the space is intended to serve. Each required car space shall not be less than 9 feet wide nor less than 19 feet long, exclusive of aisles, drives and maneuvering space.
- B. Required off-street parking facilities shall be maintained as long as the use or structure exists which the facilities are designed to serve. Nothing hereunder shall be construed to constitute or contemplate a dedication of required off-street parking facilities to general public use, but any such facilities, required in conjunction with particular structures and land uses, may be reserved at all times for all persons who make use of such structures and premises, except when such parking spaces are acquired by the Town (with regard to parking facilities being either given to the Town or purchased by the Town) as public parking areas.
- C. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated to be 270 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Town.
- D. Off-street parking facilities shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.

411.5 Additional Residential Use Parking Requirements

Any off-street parking space on a residential property other than a single-family dwelling shall have a paved or graveled surface. No vehicle shall be parked within the property on grass or dirt outside of a designated off-street parking space.

Section 412 Home Occupation

Home occupations are permitted in all zones with the following conditions:

- A. The use shall not occupy a floor area greater than twenty percent (20%) of the floor area of the dwelling unit.

- B. The principal operator shall reside on premises and shall not employ more than one person who is not a member of the immediate family.
- C. The use shall not include tearooms, snack bars, restaurants or similar establishments.
- D. There shall be no indication of the operation of the Home Occupation visible on the exterior of the building or on the lot, except a permitted sign.
- E. Outdoor storage of materials or equipment shall be screened as to not be visible from any public way, shoreline or public park.
- F. The activity shall not produce noise, odor, traffic, or other nuisances perceptible at the lot line at a higher level than is usual in the surrounding neighborhood.

Section 413 Continuing Care Retirement Community (CCRC)

413.1 Objective: The objectives of a continuing-care retirement community are to allow a more useful and flexible pattern of retirement and elderly housing in the Agricultural Zone, so as to promote the most appropriate use of land for this purpose; to facilitate economical and efficient provisions of public services; to allow land-use patterns which preserve trees, outstanding natural topographic and geologic features, and prevent soil erosion; to preserve the natural and scenic qualities of the open land in the town for conservation and recreation.

413.2 Issuance of Building Permit: The Building Inspector may issue a Building Permit for a Continuing-Care Retirement Community after the Planning Board has approved the final plan under the Site Plan Review Regulations.

413.3 Area and Setbacks:

- A. Minimum areas of land for a Continuing-Care Retirement Community: The minimum area of land shall not be less than 10 contiguous acres.
- B. Minimum setbacks for a Continuing-Care Retirement Community:
 - 1) all buildings and/or parking in the Continuing-Care Retirement Community shall be setback from a public street existing at the time of initial application not less than 100 feet.
 - 2) All building and/or parking in the Continuing-Care Retirement Community shall be setback from abutting property lot lines existing at the time of initial application not less than 100 feet.
- C. Minimum yard setbacks: Within the Continuing-Care Retirement Community the yard requirements in Section 304 do not apply and there are no fixed yard requirements for zoning purposes. The distances between buildings and distances between buildings and streets within the CCRC are determined under the Site Plan Review Regulations.

413.4 Maximum Density in a Continuing-Care Retirement Community:

- A. The maximum number of dwelling units shall not exceed 5 units per acre.
- B. There shall be a minimum of 25 dwelling units and the maximum shall not exceed 250 dwelling units. Any units used for staff dwelling shall be counted as dwelling units.
- C. If any portion of a lot is located in a zone where a CCRC is not an allowed use, then such lot area cannot be used to calculate density.

413.5 Other Regulations:

The following requirements shall be included in any CCRC:

- A. All dwelling units must be connected to the municipal water and sewer system.
- B. A minimum of 35% of the area shall be retained for open space and outdoor recreation activities.
- C. Five or more residential buildings are required. These buildings may be interconnected by a covered walkway.

Section 414 Fences

- A. Front Yard Fences. Fences located within the front yard setback shall not exceed four (4) feet in height without a special exception under Section 1204.2.
- B. In all districts, fences are permitted within side and rear yard setbacks.
- C. Any fence over four feet high shall require a Building Permit prior to installation.
 - 1. Except for a common fence, as defined by RSA 474, all fences shall be located at least one (1) foot from the property line.
- D. Fences over six feet shall require Special Exception.
 - 1. Fences shall be exempt from the foregoing requirements if it is a fence being used for reasonable agricultural or safety purposes governed by state statutes or department rules. (Adopted 3/10/89 by Warrant Article)

Section 415 Sexually Oriented Businesses

- A. Sexually-Oriented Businesses are allowed in the Agricultural zone only by special exception granted by the Zoning Board of Adjustment in accordance with Article XII.
- B. In addition to obtaining such special exception, a sexually oriented business must be located no closer than 1,000 feet to any residential structure, church, school, or facility, which provides care for one or more children. This separation requirement applies to any such existing structure or to one for which an application for a land-use permit has been submitted prior to the time that the sexually oriented business applies for its special exception.

Section 416 Accessory Dwelling Unit (ADU) by Conditional Use Permit

Purpose and Intent:

In accordance with N.H. RSA 674:71-73, the purpose of this ordinance is to expand the mix of affordable housing opportunities in town by permitting the creation of secondary dwelling residences as an accessory use to existing single-family detached dwellings while maintaining the visual and functional character of single-family residential neighborhoods for the following reasons:

- I. There is a growing need for more diverse affordable housing opportunities for the citizens of New Hampshire.
- II. Demographic trends are producing more households where adult children wish to give care and support to parents in a semi-independent living arrangement.
- III. Elderly and disabled citizens are in need of independent living space for caregivers.
- IV. There are many important societal benefits associated with the creation of accessory dwelling residences, including:
 - (a) Increasing the supply of affordable housing without the need for more infrastructure or further land development.
 - (b) Benefits for aging homeowners, single parents, recent college graduates who are saddled with significant student loan debt, caregivers, and disabled persons.
 - (c) Integrating affordable housing into the community with minimal negative impact.
 - (d) Providing elderly citizens with the opportunity to live in a supportive family environment with both independence and dignity.

Subject to the Provisions of RSA 674:21, II, the Planning Board is Hereby Authorized to Issue a Conditional Use Permit for an Accessory Dwelling Unit in the Town of Plymouth if the proposed project meets the approval criteria of the zoning ordinance and planning review.

Section 1. Definition: As used in this article, the following term shall have the meaning indicated:

Accessory Dwelling Unit. An "accessory dwelling unit" (or "ADU") is a residential living unit that is within, attached to or detached from a single-family dwelling, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Every accessory dwelling unit shall be deemed a resident of workforce housing for purposes of satisfying the municipality's obligation under RSA 674:59.

Section 2. Provisions. An accessory dwelling unit shall be permitted in all zoning districts that permit single family dwellings, subject to the following:

Criteria for Issuing ADU Conditional Use Permit:

- A. Only one (1) ADU shall be permitted on a lot that has an existing single family dwelling and no other accessory dwelling.
- B. Either the ADU or the principal dwelling unit shall be the principal residence and legal domicile of the property owner.
- C. The ADU must provide independent living facilities for one or more persons containing the four elements of sleeping, eating, cooking, and sanitation.
- D. The ADU shall not include more than two bedrooms nor shall it be occupied by more than two adults per ADU.
- E. For attached ADUs, the ADU shall have an independent means of ingress and egress, or shall have ingress and egress through a common space such as a shared hallway to an exterior door.
- F. The ADU shall not exceed 1000 square feet in habitable floor area.
- G. An ADU shall make provision for adequate water supply and for sewage disposal service in compliance with RSA 485-A:38 and regulations adopted by the New Hampshire Department of Environmental Services.
- H. The ADU shall have sufficient off-street parking allotted to it on underlying parcel and all parking shall meet current Plymouth Zoning standards and parameters for a two-family home. No new curb cut from the street shall be constructed. Previous single-family parking criteria shall cease upon construction of an attached or detached ADU for a single family dwelling on the same lot.
- I. Construction of the ADU shall meet all building code/life safety code guidance. The architecture and design of the ADU should reflect that of the primary residence.
- J. The construction of the ADU shall not increase the nonconforming aspect of any existing structure.
- K. Any exterior stairway leading to the ADU shall be covered or enclosed.
- L. **Minimum Lot Dimension Requirements:** An attached ADU shall not be required to meet additional lot area requirements beyond those already provided for the principal dwelling unit. An ADU shall comply with all lot setback requirements and shall not exceed in combination with existing structures more than 75 percent coverage of the host lot.
- M. There shall be no conveyance of an accessory dwelling unit separate from the principal dwelling unit by subdivision, as that term is defined by RSA 674:14, nor shall the accessory dwelling unit have ownership separate from the lot on which the principal dwelling is located. The structure and lot shall not be converted to a condominium or any other form of legal ownership distinct from the ownership of the principal residential dwelling.

ARTICLE V: OPEN-SPACE RESIDENTIAL DEVELOPMENT

Section 501 Statement of Purpose

The purpose of the open-space residential development option is to:

- ◆ preserve more useable open space, and features such as agricultural land, tree cover, recreation areas, or scenic vistas, and other natural and cultural resources;
- ◆ permit greater flexibility in design and to discourage development sprawl;
- ◆ facilitate the economical and efficient provision of public services;
- ◆ provide a more efficient use of land in harmony with its natural characteristics;
- ◆ and to enhance the opportunity for the cost effective development of housing.

Section 502 Definitions

The following definitions apply specifically to this Section of the Zoning Ordinance:

Open-Space Subdivison: A form of residential subdivision that permits housing units to be grouped on sites or lots with dimensions, frontages, and setbacks reduced from conventional sizes, provided the density of the tract as a whole shall not be greater than the density allowed by the provisions of this article and the remaining land area is devoted to common open space.

Buffer: An area of land used to visibly separate one use from another or which acts as a separation between two land uses of different intensity.

Open Space or Common Area: Land within or related to an open-space residential development, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development, or the public, which may contain such accessory structures and improvements as are necessary and appropriate for recreational purposes. A condition of the cluster residential development approval shall be that common open space may not be further subdivided.

Developable Land: The developable land area is that portion of the tract remaining after deducting the undevelopable land area (such as wetlands and steep slope) from the total tract area.

Homeowner's Association: A private nonprofit association which is organized by the developer of an open-space residential development in which individual owners share common interests in open space and/or facilities and are in charge of preserving, managing and maintaining the common property, and enforces certain covenants and restrictions.

Tract: An area, parcel, site, piece of land, or property, which is the subject of a development proposal and applications.

Section 503 Review Criteria

An open-space residential development proposal is subject to approval by the Planning Board pursuant to RSA 674:21 (Innovative Zoning). The Planning Board shall give particular consideration to the following criteria:

- ◆ That the proposed development will be consistent with the general purpose, goals, objectives, and standards of the town's master plan, zoning Ordinance, subdivision regulations, site plan review regulations and the purposes set forth in Section 501;
- ◆ That the proposed development complies with all applicable provisions of the zoning

Ordinance, subdivision regulations and site plan review regulations unless expressly superseded by this article;

- ◆ That the individual lots, buildings, streets and parking areas shall be designed and situated to minimize alteration of the natural site features;
- ◆ The size, shape, topography, and location of the common open space shall be suitable for the particular purpose proposed and shall be accessible to all residents of the open-space residential development and the public, if so intended; and
- ◆ The proposed development will not have an undue adverse effect upon the adjacent property, character of the neighborhood, traffic conditions, utility facilities, public health, safety and general welfare.

The Planning Board may permit minor deviations from open-space standards and requirements outlined in this article when one or more of the following occur:

- ◆ It can be determined that the objectives underlying these standards can be met without strict adherence to them;
- ◆ Due to peculiarities in the tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.

Section 504 General Requirements

- A. Location: The open-space residential development option shall be permitted or allowed by special exception in application zones.
- B. Permitted Uses: Uses in the Open-Space Residential Development shall include uses permitted in the underlying zone or allowed by special exception in the underlying zone.
- C. Minimum Tract Area: These open space design provisions may be used to design any size development.
- D. Permitted Density: The permitted density shall be determined by the Planning Board during pre-application review. In determining the permitted density for the Open Space Development, The Planning Board shall establish a density based on developable land, the minimum lot size required for the applicable zone in which the development is proposed, and a conceptual layout for a conventional subdivision.

In addition, a general resource inventory of basic topography, wetlands, floodplains, steep slopes, soils, and other areas of land where it is not feasible to accommodate building sites and individual septic systems may also be required.

For Open Space Developments, the Planning Board shall award density bonuses. Density bonuses are based on the four criteria below and these four density bonus options may be cumulative, to a maximum density bonus of 100%:

- ◆ Where the proposed Open Space Development plan shows a minimum of 25% of the total parcel as open space protected as such in perpetuity, the development may be awarded a density bonus of 50%. Where the Open Space Development plan shows greater than 25% but less than 50% of the total parcel as open space protected as such in perpetuity, the development may be awarded a density bonus that equals twice the percentage of the parcel protected as open space (i.e. 30% open space = 60% density bonus) to a maximum of 100% density bonus.
- ◆ Public Access Bonus – Where the public is granted pedestrian access to the open space a density bonus of up to 10% may be granted by the Planning Board. The Planning Board shall determine the amount of density bonus for public access based on the amount of area of open

space, unique features in the open space, proximity of the open space to other key open space or unique resources on other parcels, and the creation of a public parking area for access to the open space.

◆ Where the development protects agriculturally valuable lands and provides permission for their use as such in perpetuity, the development may be awarded a density bonus of 20%. The open space portion preserved for agricultural use must amount to a minimum of 20% of the minimum required open space and either has been historically farmed, or contains good soils for farming and must be reasonably accessible to receive the maximum bonus. The instrument granting use, acceptable to the Planning Board, may reasonably restrict the type or intensity of farming to occur to prevent nuisances. This provision only requires that permission is reasonably available, the fact that agricultural uses are not pursued at any particular time does not affect the validity of the bonus.

◆ Additional Protection Bonus – Where the development is able to protect in perpetuity one or more of the following unique characteristics it may be awarded a density bonus of 10%:

Historically significant buildings and landscapes (determined by the Planning Board) that include buildings, cemeteries, cellar holes, and associated uses that are maintained and visually separated from the developed portion of the open space development.

Valuable wildlife and environmental areas that are otherwise buildable land, proven as such through an environmental resources inventory by a qualified wildlife biologist specializing in either flora or fauna.

Significant and valuable natural features (determined by the Planning Board) such as waterfalls, ponds and view scapes.

Linking open space parcels or trail corridors through the site with existing trails or open space networks. The beginning of such a network or trailway may be considered as linking where responsible opportunity is present for establishing through corridors into neighboring parcels and provided that Conservation Commission comment is in favor of this location.

Lot Size: The minimum lot area for individual building lots within an open space residential development shall be determined by the Planning Board in the interest of encouraging flexibility in site design, and the preservation of open space. However, the minimum lot area per dwelling unit shall be no less than 25% of the lot area required for a lot in an open space development.

Frontage: The minimum open space residential development frontage on a state- or town-maintained road shall be fifty (50) feet serving as access to the development. The road frontage for individual building lots within the open space residential development shall be as determined by the Planning Board in the interest of encouraging flexibility in site design, and shall be such that the average lot frontage is no less than one-half (1/2) the required frontage of the zone in which the open space residential development is located.

Yard Requirements: Yards abutting the boundaries of the entire open space residential development tract shall be a minimum of fifty (50) feet regardless of the minimum requirements for the zone. The front setback for all dwelling units proposed to front on any existing public street shall not be less than the front yard setback requirements of the respective zone in which the open space residential development is located. The front, side and rear yard dimensions for proposed dwelling units located on interior streets may be modified by the Planning Board, allowing for flexibility in site design in consideration of safety, sight lines, snow removal, drainage, parking, and other matters.

Buffer: A buffer area having a minimum depth of fifty (50) feet shall be provided between any proposed structure within the open space residential development and the perimeter of the tract. This shall be the minimum buffer required regardless of the minimum yard requirements of the particular zone where the open space residential development is located. Whenever possible, the natural open space residential development is located. Whenever possible, the natural vegetation shall be retained, or if required, vegetation shall be planted of sufficient size to shield the open space residential development from abutting properties. The buffer shall not be considered part of the designated open space except at the discretion of the Planning Board. In making this determination, the Planning Board shall consider the overall layout of the lot, topography, natural features, vegetation, and uses on neighboring lots. No dwelling, accessory structure, collector or service roads nor parking areas shall be permitted within the designated buffer area. However, primary roads are permitted to cross the buffer.

Common Open Space: The area, configuration and location of a designated open space shall be subject to Planning Board approval.

The land so set aside shall be provided in such a manner that it is useable for recreation or other activities. The Common Open Space shall not be encroached upon by uses or structures not permitted in the open space area.

Recreational open space shall be reasonably accessible to all residents of the open space residential development, or to the public where land has been deeded to the Town. However, because of possible noise generation from an active recreation area, they shall be sited with sensitivity to surrounding development.

Permitted facilities on recreational open space include outdoor tennis courts, golf courses, swimming pools, basketball courts, playgrounds, beaches, docks, trails, community gardens, agricultural and horticultural uses and timber management, community wells, community leach fields. No more than 10% of the required open space shall be devoted to recreational facilities that have impervious surfaces.

Roads: All roads shall be designed and constructed in accordance with town road standards, except that the Planning Board may approve minor reductions in the required right-of-way width. Width of pavement of service roads which provide access within the open space residential development and to clustered dwelling units may be modified by the Planning Board in consultation with the town Highway Manager where deemed practical and appropriate.

Section 505 Common Open-Space Ownership and Management

A. Common Open Space Ownership. The type of ownership of land dedicated for common open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of the Planning Board. Type of ownership may include, but is not necessarily limited to, the following:

- 1) The town, subject to acceptance by the governing body of the municipality;
- 2) Other public jurisdictions or agencies, subject to their acceptance;
- 3) Quasi-public organizations, subject to their acceptance;
- 4) Homeowner or cooperative associations or organizations;
- 5) Shared, undivided interest by all property owners in the subdivision.

B. Homeowner's Association: All common open space, any common areas or common facilities within the open space residential development shall be permanently protected

by covenants and restrictions running with the land and shall be conveyed by the property owner(s) to a homeowner's association or other legal entity under the laws of the State of New Hampshire, or an easement may be proposed to be deeded to the town insuring that it be maintained as open space, or to a private, nonprofit organization, the principal purpose of which is the conservation of open space.

Covenants or other legal arrangements shall specify ownership of the common open space; responsibility for maintenance; compulsory homeowner's association membership and tax assessment provisions; guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Board.

All lands and improvements shall be described and identified as to location, size, use and control in the restrictive covenants. These restrictive covenants shall be written so as to run with the land and shall become part of the deed of each lot or dwelling unit within the open space residential development.

C. Maintenance of Common Open Space: The person(s) or entity identified in section 505(A) as having the right to ownership or control over common open space shall be responsible for its continued upkeep and proper maintenance and, in any case, the ultimate responsibility for upkeep and maintenance shall be that of the lot owners.

D. Current Use Limitation: Common open space in an approved open space residential development is considered to be part of the residential use of such development and shall not be considered to be "open space land", "farmland", "forest land", "wetland", "recreation land", "floodplain", or "wild land" within the meaning of RSA 79-A except where such consists of actively operated farmland. This shall not pertain to the unbuildable land that is not part of the common open space and was not used to calculate the overall density. Taxation of such other land shall be in accordance with applicable laws.

ARTICLE VI: INDUSTRIAL PARK

Section 601 Objectives

The objectives of an Industrial Park are to encourage flexibility of design and development, to allow for the economic advantage of smaller networks of streets and utilities and to minimize negative impacts on less intensive uses.

Section 602 Permit to Build

Before issuing a permit to build, Selectmen shall ask the Planning Board to consider the overall design of the proposed park as well as standards in 1004.3-B.

ARTICLE VII: FLOODPLAIN DEVELOPMENT

Section 701 General Provisions

Certain areas of the Town of Plymouth, New Hampshire are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the Town of Plymouth, New Hampshire has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as detailed in this floodplain management Ordinance.

This article, adopted pursuant to the authority of RSA 674:16, shall be known as Article VII Floodplain Development. The regulations in this article shall overlay and supplement the regulations of the Town of Plymouth Zoning Ordinance and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. If any provision of this article differs or appears to conflict with any provision of the Zoning Ordinance or other Ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling.

Pursuant to RSA 674:57, by resolution of the Town of Plymouth Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Grafton, NH" dated February 20, 2008, together with the associated Flood Insurance Rate Maps dated February 20, 2008, are declared to be part of the Zoning Ordinance of the Town of Plymouth, New Hampshire and are hereby incorporated by reference. (Resolved by the BOS October 22, 2007). Revised Flood Insurance Studies and Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA), when officially adopted by the Federal Emergency Management Agency (FEMA), shall be incorporated into the official zoning map of the Town of Plymouth. The dates of the maps so produced shall be inserted on the official zoning map and appropriate textual changes referring to those dates shall be incorporated into this Ordinance where necessary.

Section 702 Definition of Terms

The following definitions shall apply only to this Floodplain Development Article and shall not be affected by the provisions of any other Ordinance of the Town of Plymouth. Definitions contained in this article are also referenced under Article II, Section 202, Term Definitions, when applicable.

"AREA OF SPECIAL FLOOD HAZARD" is the land in the floodplain within the Town of Plymouth subject to a 1% or greater chance of flooding in any given year. The area is designated as Zone A or AE on the Flood Insurance Rate Map.

"BASE FLOOD" means the flood having a 1% possibility of being equaled or exceeded in any given year.

"BASEMENT" means any area of a building having its floor subgrade on all sides.

"BUILDING" - see "structure".

"DEVELOPMENT" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

“FEMA” means the Federal Emergency Management Agency.

“FLOOD” or “FLOODING” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of inland or tidal waters
- 2) the unusual and rapid accumulation or runoff of surface waters from any source.

“FLOOD INSURANCE RATE MAP” (FIRM) means an official map incorporated with this Ordinance, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Plymouth.

“FLOOD INSURANCE STUDY” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water-surface elevations, and an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

“FLOODPLAIN” or “FLOOD-PRONE AREA” means any land area susceptible to being inundated by water from any source (see definition of “Flooding”).

“FLOOD PROOFING” means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

“FLOODWAY” - see “Regulatory Floodway”

“FUNCTIONALLY DEPENDENT USE” means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

“HIGHEST ADJACENT GRADE” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“HISTORIC STRUCTURE” means any structure that is:

- 1) by the Listed individually in the National Register of Historic Places (a listing maintained Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or
 - b) Directly by the Secretary of the Interior in states without approved programs.

“LOWEST FLOOR” means the lowest floor to the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided

that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term “manufactured home” includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in manufactured home parks or subdivisions.

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) or land divided into two or more manufactured home lots for rent or sale.

“MEAN SEA LEVEL” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

“NEW CONSTRUCTION” means for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“100-YEAR FLOOD” - see “base flood”

“RECREATIONAL VEHICLE” means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projection; (iii) designed to be self-propelled or permanently towable by a light-duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“REGULATORY FLOODWAY” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

“SPECIAL FLOOD HAZARD AREA” see “Area of Special Flood Hazard”

“STRUCTURE” means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“START OF CONSTRUCTION: includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or part of the main structure.

“SUBSTANTIAL DAMAGE” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds 50% of the market value of the structure. The market value of the structure should equal:

- 1) the appraised value prior to the start of the initial repair or improvement, or
- 2) in the case of damage, the value of the structure prior to the damage occurring.

For the purpose of this definition “Substantial Improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures, which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

“VIOLATION” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificates, other certifications, or other evidence of compliance required in 44CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

“WATER SURFACE ELEVATION” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

Section 703 Permits Required

All proposed development in any special flood hazard areas shall require a Land Use Permit (see the definition of “development in Section 702).

Section 704 Review of Building Permit Applications

The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:

- A) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B) be constructed with materials resistant to flood damage
- C) be constructed by methods and practices that minimize flood damages
- D) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 705 New or Replaced Water and Sewer Systems

Where new or replacement water and sewer systems (including on-site systems) are proposed in a special flood hazard area the applicant shall provide the Selectmen with assurance that these systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. The applicant shall provide the Selectmen with assurance that these on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

Section 706 Plans and Certification Following Construction

706.1 For all new or substantially improved structures located in zones A and AE, the applicant shall furnish the following information to the Selectmen:

- A) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- B) if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- C) any certification of floodproofing.

706.2 The Selectman shall maintain for public inspection, and shall furnish such information upon request.

Section 707 Other Government Permits

The Building Inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Section 708 Riverine Situations

708.1 In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Selectmen in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to adjacent communities as determined by the Selectmen including notice of all scheduled hearings before the Wetlands Board.

708.2 The applicant shall submit to the Selectmen, certification provided by a registered professional engineer, assuring that the flood-carrying capacity of an altered or relocated watercourse can and will be maintained.

708.3 Along watercourses with a designated Regulatory Floodway no encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the base flood discharge.

- A) Until a Regulatory Floodway is designated along watercourses no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones

A1-30 on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase that water surface elevation of the base flood more than one foot at any point within the community.

- B) No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.

Section 709 Special Flood Hazard Areas

709.1 In special flood hazard areas the Selectmen shall determine the 100-year-flood elevation in the following order of precedence according to the data available:

- A) In zones AE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM
- B) In zone A the Selectmen shall obtain, review, and reasonably utilize any 100-year-flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals)

709.2 The Selectman's 100-year-flood elevation determination will be used as criteria for requiring in zones A and AE that:

- A. All new construction or substantial improvement of residential structures have the lowest floors (including basement) elevated to or above the 100-year-flood elevation;
- B. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year-flood level; or together with attendant utility and sanitary facilities, shall:
- be flood proofed so that below the 100-year-flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section:
- C. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces:
- D. Recreational vehicles placed on sites within Zones A and AE shall either:
- be on the site for fewer than 180 consecutive days
 - be fully licensed and ready for highway use or
 - meet all standards of Section 60.3 (b)(1) or the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "Manufactured Homes" in Paragraph (c)(6) of section 60.3
- E. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding, are permitted provided they meet the following requirements:
- the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - the area is not a basement;
 - shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must

either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

d. NOTE: Article VII – Floodplain Development was amended March 15, 2007

Section 710 Environmentally-Sensitive Zone

710.1 It is hereby established that an Environmentally-Sensitive Zone be created to include all land within 500 feet as measured horizontally from the edge of the normal river channels of the Baker and Pemigewasset Rivers and the mean high water line of Loon Lake.

710.2 Notwithstanding provisions for setbacks elsewhere in these regulations:

A. Structures shall be setback 75 feet from the edge of the normal river channel or the mean high water line of the lake

710.3 Notwithstanding provisions for frontage elsewhere in these regulations:

A. minimum waterfront frontage shall be 150 feet per unit

B. for multiple unit structures containing 3 or more dwelling units, minimum waterfront frontage shall be 75 feet per unit

710.4 The following are prohibited within the Environmentally-Sensitive Zone as outlined above:

A. any construction within the setback area

B. any disturbance for which an Earth Excavation Permit issued under RFA 155-E (soil and gravel mining) is required.

C. Any placement or removal of fill excepting that which is incidental to the lawful construction or alteration of a building or structure or the lawful construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs

D. any placement or removal of fill excepting that which is incidental to agricultural or silvacultural activities, normal landscaping or minor topographical adjustment

710.5 Any embankments remaining as a result of the placement or removal of fill shall be graded and stabilized to reduce erosion. The maximum slope of an embankment shall be no greater than 3:1 unless designed otherwise by a qualified engineer.

Section 711 Appeals and Variances

711.1 Any order, requirement, decision or determination of the Selectmen or their designee made under this article may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

711.2 If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (B), the applicant shall have the burden of showing in addition to the usual variance standards under state law:

A. that the variance will not result in increased flood heights, additional threats to public safety, or extraordinary expense.

B. that if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result

C. that the variance is the minimum necessary, considering the flood hazard, to afford relief

711.3 The Zoning Board of Adjustment shall notify the applicant in writing that:

- A. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
- B. such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

711.4 The community shall:

- A. maintain a record of all variance actions, including their justification for their issuance, and
- B. report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE VIII: AIRPORT OVERLAY ZONE

Section 801 Purpose and Public Interest

This article is adopted pursuant to the authority conferred by RSA 424:5 and is hereby incorporated within the general Zoning Ordinance of the Town of Plymouth and made a part thereof, pursuant to RSA 424:5 (II). It is hereby found that an obstruction has the potential for endangering the lives and property of the users of the Plymouth Municipal Airport, and property or occupants of land within its vicinity; that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Plymouth Municipal Airport and the public investment herein. Accordingly, it is declared:

- A. that the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Plymouth Municipal Airport;
- B. that it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented and
- C. that the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

Section 802 Airport Zones

In order to carry out the provisions of this article there are hereby created and established certain zones which include all of the land laying beneath the approach surfaces, transitional surface, horizontal surfaces, and conical surfaces as they apply to the Plymouth Municipal Airport. Such zones are shown on the Plymouth Municipal Airport Zoning Map and described within the Plymouth Municipal Airport Approach Plan consisting of 3 sheets, prepared by the New Hampshire Department of Transportation, Division of Aeronautics, and dated December 20, 1988, which are attached to this Ordinance as Appendix II and III and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with more restrictive height limitation. The various zones are hereby established and defined as follows:

802.1 Utility Runway Visual Approach Zone

The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

802.2 Transitional Zones

The transitional zones are the areas beneath the transitional surfaces.

802.3 Horizontal Zone

The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

802.4 Conical Zone

The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

Section 803 Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered or maintained and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

803.1 Utility Runway Visual Approach Zone

Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along with the extended runway centerline.

803.2 Transitional Zones

Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 505 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.

803.3 Horizontal Zone

Established at 150 feet above the airport elevation or at a height of 655 feet above mean sea level.

803.4 Conical Zone

Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

803.5 Excepted Height Limitations

Nothing in this article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

Section 804 Use Restrictions

Notwithstanding any other provisions of the Ordinance, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing takeoff, or maneuvering of aircraft intending to use the airport.

Section 805 Nonconforming Uses

805.1 Regulation Not Retroactive

The regulations prescribed by this article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective

date of this article, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article and is diligently prosecuted.

805.2 Marking and Lighting

Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the airport manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Town of Plymouth.

Section 806 Land Use Permits

806.1 Future Uses

Except as specifically provided in A, B, and C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a land-use permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved.

- A. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet or vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such horizontal and conical zones.
- B. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,000 feet from each end of the runway, no permit shall be required for any tree less than seventy-five (75) feet or structure less than thirty-five (35) feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.
- C. In areas lying within the limits of the transitional zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits prescribed for such transitional zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction or alteration or any structure or growth of any tree in excess of any of the height limits established by this Ordinance.

806.2 Existing Uses

No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendment thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

806.3 Nonconforming Uses Abandoned or Destroyed

Whenever the Board of Selectmen or their designee determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

806.4 Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article may apply to the Board of Adjustment for variance from such regulations. The application for a variance shall be accompanied by a determination for the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in an unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this article. Additionally, no application for variance to the requirements of this article may be considered by the Board of Adjustment unless a aeronautical effects of the variance. If the Airport Manager does not respond to the application with fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

806.5 Obstruction Marking and Lighting

Any permit of variance granted may, if such action is deemed advisable to effectuate the purpose of this article and to be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Town of Plymouth at its own expense to install, operate and maintain the necessary markings and lights.

ARTICLE IX: PERSONAL WIRELESS SERVICE FACILITIES

Section 901 Purpose

The purpose of this Article is to establish general guidelines for the siting of personal wireless service facilities and to enhance and fulfill the following goals:

- ◆ Preserve the authority of the Town of Plymouth to regulate and to provide reasonable opportunities for the siting of personal wireless service facilities while ensuring that carrier's service remains effective and efficient
- ◆ To permit carriers to locate personal wireless service facilities within the Town of Plymouth in a manner that will ensure compatibility with the visual and environmental features of the Town. Compatibility with visual features is measured based on the change in community scale and character in relation to the height, mass, materials, contrasts, or proportion within the surroundings of a proposed personal wireless service facility
- ◆ Require cooperation and co-location between competitors, to the highest extent possible, in order to reduce cumulative negative impacts on the Town of Plymouth
- ◆ Permit the construction of new towers and facilities only where all other reasonable opportunities to locate facilities on existing structures have been exhausted, and encourage the owners and users of towers and antennas to configure them in a manner that minimizes adverse visual impacts of the structures
- ◆ Provide for constant maintenance and safety inspections for all personal wireless service facilities and appurtenances.
- ◆ Provide for the removal or upgrade of technologically outdated facilities.
- ◆ Provide for the removal of abandoned facilities including a procedure for the Town of Plymouth to remove abandoned facilities in certain causes to ensure the public health and safety.

Section 902 Definitions Specific to Personal Wireless Service Facilities

ANTENNA: The surface from which wireless radio signals are sent and/or received by a personal wireless service facility.

ANTENNA ARRAY: A collection of antennas attached to a mount to send and receive radio signals.

AVERAGE TREE CANOPY HEIGHT: The average height of the twenty-five tallest trees within 150 feet of the base of the Personal Wireless Service Facility.

CAMOUFLAGE: A PWSF that is disguised in a way that the appearance to a viewer is such that the object does not look like the facility it functions as.

CARRIER: A company that provides personal wireless services, also sometimes referred to as a provider.

CONCEAL: A PWSF that is hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

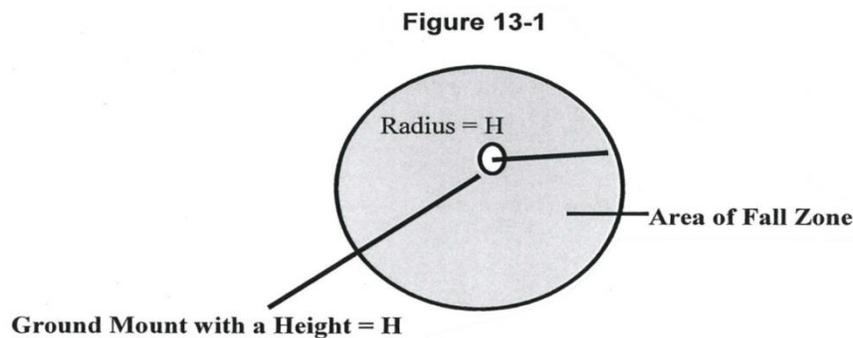
CO-LOCATION: The use of a single mount on the ground by more than one carrier (vertical co-location) or the same carrier with multiple licenses, and/or the use of several mounts on an existing building or structure by more than one carrier or the same carrier with multiple licenses.

ENVIRONMENTAL ASSESSMENT (EA): An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EQUIPMENT SHELTER: An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for personal wireless service facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

FACILITY: See Personal Wireless Service Facility.

FALL ZONE: The area on the ground from the base of a ground-mounted personal wireless service facility that forms a circle with a radius equal to the height of the facility, including any antennas or other appurtenances, as set forth in Figure 13-1. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.



GUYED TOWER: A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

HEIGHT: The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

LATTICE TOWER: A type of mount with multiple legs and structural cross bracing between the legs that is self-supporting and free standing.

MAST: A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

MONOPOLE: A thicker type of mount than a mast that is self supporting with a single shaft of wood, steel, concrete, or other material that is designed for the placement of antennas and arrays along the shaft.

MOUNT: The structure or surface upon which antennas are mounted, including the following four types of mounts:

- ◆ Roof-mounted. Mounted on roof of a building
- ◆ Side-mounted. Mounted on the side of a building
- ◆ Ground-mounted. Mounted on the ground
- ◆ Structure-mounted. Mounted on a structure other than a building

PERSONAL WIRELESS SERVICE FACILITY: Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended. Personal Wireless Service facilities include a mount, antenna, equipment shelter, and other related equipment.

PERSONAL WIRELESS SERVICES: The three types of services regulated by this Ordinance: Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

RADIO FREQUENCY (RF) ENGINEER: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

RADIO FREQUENCY RADIATION (RFR): The emissions from personal wireless service facilities.

SECURITY BARRIER: A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

SEPARATION: The distance between one carrier's array of antennas and another carrier's array.

Section 903 Location

Personal wireless service facilities shall be allowed, in accordance with the Use Regulations and other provisions of this article, as either primary or accessory uses in all zones in the Town of Plymouth provided that the Design Standards of this Article are met.

Personal wireless service facilities shall be located when possible on existing structures, including but not limited to buildings, water towers, existing personal wireless service facilities, utility poles or towers, and related facilities provided that such installation preserves the character and integrity of those structures.

If the applicant demonstrates that it is not feasible to locate on an existing structure, ground-mounted personal wireless service facilities shall be designed so as to be camouflaged or concealed to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping, and placement within trees.

Section 904 Use Regulations

904.1 Existing Tower Structures

Subject to the issuance of a Land Use Permit, carriers may locate a mount and/or antenna on any guyed tower, lattice tower, mast, monopole, or utility pole in existence prior to the adoption of this Article, or on any personal wireless service facility previously approved under the provisions of this Article so long as the co-location complies with the approved site plan.

904.2 Reconstruction of Existing Tower Structures

All existing guyed tower, lattice tower, monopole, or mast in existence prior to the adoption of this Article may be reconstructed so long as the height of the structure is not increased. The mount shall be replaced with a similar mount that does not increase the visual impact on the community. Site Plan Review approval and a Land Use Permit are required.

904.3 Existing Structures

Subject to the Design Standards of this Article, a carrier may locate a personal wireless service facility

on an existing structure or building. Site Plan Review approval is required.

904.4 Ground-mounted Facility

A personal wireless service facility involving construction of a ground mount shall require Site Plan Review approval and a Land Use Permit and be subject to the provisions of this Article.

Section 905 Design Standards

905.1 Height Requirements

HEIGHT, MAXIMUM: In no case shall a personal wireless service facility exceed two hundred (200) feet in height, unless the mount for the facility was greater than two hundred (200) feet in height prior to the adoption of this Article.

HEIGHT, EXISTING STRUCTURES AND UTILITY POLES: Carriers that locate new personal wireless service facilities on water towers, electric transmission and distribution towers, utility poles and similar existing utility structures, guyed towers, lattice towers, masts, and monopoles may be permitted to increase the height of those structures no more than at ten (10) feet. This increase in height shall only be permitted once for each structure.

HEIGHT, OTHER EXISTING STRUCTURES: The height of a personal wireless service facility shall not increase the height of a structure by more than ten (10) feet, unless the facility is completely camouflaged; for example a facility completely within a flagpole, steeple, or chimney. The increase in the height of the structure shall be in scale and proportion to the structure as originally configured and shall be determined by the Planning Board during Site Plan Review. A carrier may locate a personal wireless service facility on a building that is legally nonconforming with respect to height, provided that the provisions of this Article are met.

HEIGHT, GROUND-MOUNTED FACILITIES: Ground-mounted personal wireless service facilities shall not project higher than twenty (20) feet above the average tree canopy height.

PLANNING BOARD FLEXIBILITY: HEIGHTS: In reviewing a Site Plan Review application for a personal wireless service facility, the Planning Board may permit an increase in the height of a ground-mounted facility up to forty (40) feet above the average tree canopy height, if no material increase in visual or environmental impacts will result from the increase height. The visual and environmental criteria of this Article and the Site Plan Review Regulations shall be the guidelines in making this determination.

905.2 Setbacks

All personal wireless service facilities, their equipment shelters and fences shall comply with the building setback provisions of the zoning district in which the facility is located.

905.3 Fall Zone for Ground Mounts

In order to ensure public safety, the minimum distance from the base of any ground-mount of a personal wireless service facility to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in this Article. The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the Site Plan Review.

905.4 Fall Zone for Non-Ground Mounts

In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing non-conforming structures, personal wireless service facilities and their equipment

shelters shall not increase any non-conformities.

905.5 Visibility

Personal wireless service facilities shall be designed to protect the existing environment and minimize visual impacts through the design and color of the facility and camouflage or concealment of the facilities. The design and mitigation of the visual impacts of the personal wireless service facility shall be determined by the Planning Board through the Site Plan Review process.

905.6 Lighting

- ◆ Personal wireless service facilities shall be illuminated only if required by the Federal Aviation Administration (FAA).
- ◆ Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.

905.7 Signage

Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the Plymouth Zoning Ordinance.

905.8 Security Barrier

The Planning Board shall have final authority on whether a ground-mounted personal wireless service facility should be surrounded by a security barrier.

905.9 Antenna Types

Any antenna array placed upon an existing or proposed ground mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount. A larger diameter antenna array may be permitted after a finding by the Planning Board that the visual impacts of a larger antenna array are negligible.

905.10 Hazardous Waste

No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.

905.11 Noise

Personal wireless service facilities shall not generate noise in excess of that permitted under the Plymouth Noise Ordinance.

905.12 Radio Frequency Radiation (RFR) Standards

All equipment proposed for a personal wireless service facility shall be fully compliant with the FCC Guidelines for evaluating the Environmental Effects of Radio frequency Radiation (FCC Guidelines), under *Report and Order*, FCC 96-326, published on August 1, 1996 and all subsequent amendments.

Section 906 Monitoring and Maintenance

906.1 Maintenance

The owner of the facility shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, and maintenance of the buffer areas and landscaping.

906.2 Monitoring

As part of the issuance of the site plan approval or Building Permit, the property owner shall agree that the Town of Plymouth may enter the subject property to obtain RFR measurements and noise measurements at the expense of the carrier. The town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town representatives when the measurements are conducted.

906.3 Security for Removal

Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility. The amount of the security shall be based upon the removal cost plus fifteen percent (15%) provided by the applicant and certified by a professional civil engineer license in the State of New Hampshire. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in the State of New Hampshire every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

Section 907 Abandonment or Discontinuation of Use

907.1 Notification

At such time that a carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified U.S. Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations. In the event that a carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

907.2 Removal

Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the personal wireless service facility within ninety (90) days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- ◆ Removal of antennas, mount, equipment shelters, and security barriers from the subject property.
- ◆ Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- ◆ Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after condition.

907.3 Failure to Remove

If the owner of the facility does not remove the facility upon the Town's order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

ARTICLE X: IMPACT FEES

Section 1001 Authority and Purpose

This article is adopted pursuant to RSA 674:16 and 674:21. The purpose of this article is to allow the Town to equitably allocate the costs associated with development to meet the needs occasioned by particular development for the construction or improvement of off-site capital facilities owned or operated by the Town.

Section 1002 Definitions

In this article the following definitions apply:

IMPACT FEE: A fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town, including and limited to water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewers; storm water; drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space.

DEVELOPMENT: The construction, improvement, replacement, addition, expansion, or other use of a structure or land which requires approval of the Planning Board, Zoning Board of Adjustment, or the issuance of a building permit or certificate of occupancy. Development also includes, without limitation by reason of enumeration, subdivisions, nonresidential development of land, construction or expansion of structures, or commencement or expansion of uses, which may reasonably be expected to have an impact on the municipal facilities described in Section 1002. Development does not include such structures or uses which may not be reasonably expected to have an impact on such municipal facilities, including the lawful, in-kind replacement or reconstruction of an existing structure that was damaged or destroyed by fire, accident or other natural disaster, if the replacement occurs within 2 years after such damage or destruction.

Section 1003 Administration

This article shall be administered by the Planning Board, which shall adopt regulations establishing procedures and guidelines for the implementation of this article. As this article is adopted pursuant to the innovative zoning provisions of RSA 674:21, administrative decisions made by the Planning Board under this article may not be appealed to the Zoning Board of Adjustment, but shall be appealed pursuant to RSA 677:15. The Planning Board may adopt regulations, which establish threshold levels of development for consideration of impact fee assessments under this article.

Section 1004 Assessment and Determination of Impact Fee

Any development as defined with Section 1002 shall be liable for the payment of an impact fee in accordance with this article. The amount of the impact fee shall be determined as follows:

1004.1 Site Specific Impacts

The Planning Board shall review each development as defined in Section 1002 to determine if an off-site impact is generated that is subject to an impact fee determination under this article. The development shall be subject to such a fee if the Planning Board finds that the costs required for construction or improvement of the municipal infrastructure described in Section 1002 or any other Town owned or operated municipal capital facilities is appropriate. To determine if it is appropriate to impose such an impact fee, and if so, the amount of the impact fee, the Planning Board shall determine the off-site improvements reasonably related to the development and shall then determine whether developer contribution to the payment of costs for such improvements is appropriate. In making such determination, the Planning Board shall consider the future and indirect benefits accruing to the development from the improvement(s), noting that permanent improvements are not made solely with reference to present conditions. The Planning Board may then determine the amount of the impact fee which shall be that portion of the cost, which bears a rational nexus to the needs, created by, and special benefits conferred upon, the development and which considers the burdens imposed upon the Town either forthwith or in the immediate future.

1004.2 Special Exceptions

Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

Section 1005 Assessment Handling and Collection of Impact Fees

1005.1 An impact fee shall be accounted for separately and shall be segregated from the Town's general fund. An impact fee may be spent upon order of the Board of Selectmen, shall be exempt from all provisions of RSA 32 relative to limitation and expenditure of Town monies, and shall be used solely for the capital improvements for which it was collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fee was collected to meet.

1005.2 Each impact fee imposed pursuant to this article shall be assessed prior to, or as a condition for, the issuance of a Land Use Permit or other appropriate permission to proceed with the development.

1005.3 An impact fee shall normally be collected prior to the occupancy of the development if a certificate of occupancy is not required by the Town. However, in projects where off-site improvements are to be constructed simultaneously with a project's development, and where the Town has appropriated the necessary funds to cover such portions of the work for which it is responsible, the Planning Board may advance the time of collection of the impact fee to the issuance of a Land Use Permit. Nothing in this article prevents the Planning Board and the assessed party from establishing an alternative, mutually acceptable schedule of payment.

1005.4 In the interim between assessment and collection of an impact fee, the Planning Board may require the developer to post acceptable surety to guarantee future payment of assessed impact fees.

1005.5 Any portion of an impact fee which has not become encumbered or otherwise legally bound to be spent for the purpose for which it was collected shall be refunded, with accrued interest, after the expiration of 6 years from the date it is collected. When an impact fee calculation has been predicted upon some portion of capital improvement costs being borne by the Town, a refund shall be made upon the failure of the Town Meeting to appropriate the Town's share of the capital improvement costs within 6 years.

Section 1006 On-Site Improvements

This article shall not affect the authority or ability of the Planning Board or the Zoning Board of Adjustment to consider and impose conditions relating to on-site conditions associated with development, including, but not limited to, internal roads, drainage, water and sewer connections, and other factors as may be appropriate to the circumstances.

Section 1007 Waivers

The Planning Board may waive the imposition of an impact fee upon written request of the developer or person assessed if the Board finds that good cause is demonstrated for such waiver. Prior to the approval of any such waiver, the Planning Board shall notify the public and the Selectmen and shall hold a public hearing on the waiver request. The burden shall be upon the person requesting the waiver to demonstrate that it is in the public interest to do so and that good cause for the waiver exists.

Section 1008 Effective Date

This article shall take effect upon its adoption.

ARTICLE XI: ADMINISTRATION AND ENFORCEMENT

Section 1101 Administrative Official

This Ordinance shall be administered and enforced by the Board of Selectmen or their designee.

1101.1 Violations

Pursuant to RSA 676, the Board of Selectmen, in the name of the Town, may institute, or cause to be instituted, legal or equitable action(s) appropriate or necessary, in their sole discretion, to enforce this Ordinance. The Selectmen may institute such action against the property owner, a tenant, an occupant or a person in possession of the property upon which such a claimed violation occurs, or any combination thereof, as the Selectmen deem appropriate to secure compliance, and to impose fines, penalties, forfeitures upon the person(s) responsible for the violation.

1101.2 Penalty

Fines and penalties for violations of this Ordinance shall be consistent with RSA 676:17-a and 676:17-b.

Section 1102 Building Regulations

1102.1 Appointment

It shall be the duty of the Board of Selectmen to appoint an Administrative Officer to enforce the provisions of this Section. The person appointment shall be known as the "Building Inspector". The Building Inspector shall receive applications and fees for the erection or alteration of buildings as provided in this Ordinance; keep complete records of applications and his action on the applications; promptly survey and inspect all buildings, alterations, or uses proposed; accept and deposit with the Town all fees collected under the Ordinance; issue permits for erection or alteration of all buildings and use of land if, in his opinion, the proposal complies with the laws of the State, this Ordinance, other Town Ordinances and By-Laws; and shall take such action in the enforcement of this Ordinance as may be directed by the Selectmen.

1102.2 Duties of the Building Inspector

The Building Inspector shall be the Administrative Officer of this Section. He shall:

- ◆ Receive applications and fees for the erection and/or alteration of buildings
- ◆ Make available all applications
- ◆ Keep complete records of his action on all applications
- ◆ Issue or deny permits, based on the compliance of the proposed project with this Ordinance, the Zoning Ordinance of the Town of Plymouth and all other Town and State Ordinances and regulations, including the Americans with Disabilities Act.
- ◆ Regularly inspect buildings during the process of erection or alterations.
- ◆ Bring to the attention of the Board of Selectmen any violations of this Ordinance and take action in the enforcement of this Ordinance.
- ◆ Accept and deposit with the Town all fees collected by him under this Ordinance.
- ◆ Act in cooperation with the Plymouth Fire Department in any manner in which their duties, as prescribed by law, may coincide or conflict.
- ◆ Examine and, if necessary, order the repair, vacancy, or demolition of unsafe buildings and structures.

1102.3 Duties of Applicant

Any person, persons, partnership, trust, or corporation intending to construct or erect a new building or to make alterations not specifically exempted in this Ordinance shall first make application for a permit on forms obtained from the Building Inspector.

- ◆ Said application shall be accompanied by a drawing or plan for any proposed building or alteration
- ◆ Said application shall be accompanied by a signed statement of the intended use of the building upon completion of the project.
- ◆ The applicant shall display prominently at the site of the construction or alteration a card issued by the Building Inspector evidencing his permit.
- ◆ The applicant shall make the premises accessible to the Building Inspector, his consultants and Fire Department Inspector, at reasonable times, for the performance of their duties.
- ◆ The applicant shall notify the Building Inspector of the start of construction under a building permit at least twenty-four (24) hours in advance, and he shall, if a schedule of inspection is required by the Building Inspector, notify the Building Inspector of the progress of construction at least twenty-four (24) hours prior to those times specified by the Building Inspector.
- ◆ No electrical or plumbing work shall be covered over unless it has been inspected and approved by the Building Inspector or designee.
- ◆ The applicant shall not occupy or use the new building or altered space unless the Building Inspector has, after an inspection of the complete work, issued a notice authorizing said occupancy of use.
- ◆ Permits shall also be obtained from the Building Inspector for all electrical and plumbing work, and for the installation of pre-certified manufactured housing, prior to the commencement of the work or installation.
- ◆ Permits for oil-burning and fuel gas appliances shall be obtained from the Plymouth Fire Dept. prior to operation or the Fire Chief's schedule.

1102.4 Application Fees

For the purpose of determining these fees, the square footage shall be taken from the outside measurements of all floors, including basements.

Fees for permits may be set by the Board of Selectmen after a public hearing, and do not have to be voted on at the annual Town Meeting.

1102.5 Issuance of Permits

A permit shall become invalid unless operations are commenced within twelve months from the date of issuance. The owner (or his representative) of any building or structure for which a building permit is granted shall, upon completion of the work authorized, notify the Building Inspector. The Inspector shall inspect the building or structure within a reasonable time. If said work has been completed in accordance with all applicable statutes, ordinances, rules and regulations, including any grading or features necessary for health and safety of occupancy, the Inspector shall issue a notice to the owner specifying that the building may be occupied for the purpose stated in the permit.

1102.6 Codes Adopted by Reference

The Town of Plymouth hereby adopts the State Building code as defined in RSA 155-A: 1, IV.

1102.7 Building Requirements

No building or structure shall be erected, altered, rebuilt, remodeled or substantially repaired, or new paving applied over previously unpaved surfaces, unless in compliance with the Codes adopted in Section 1102.6, the Zoning Ordinance of the Town of Plymouth and the following building

requirements.

Sewage Disposal: All dwellings and all commercial, industrial, or public building shall be connected to the public sewer system (Plymouth Village Water & Sewer District) were available. Where the public sewer system is not available, a suitable subsurface disposal system shall be provided. The type, size and construction of all such systems shall conform to New Hampshire Laws and Regulations.

Completion of Buildings: All buildings or additions shall be completed as to outside appearances, not including painting or landscaping, within one year from the date of issuance of a permit. A one-year extension of a building permit may be granted by the Building Inspector upon receipt of a written request for extension at least fourteen (14) days prior to the expiration of a permit. All buildings and structures shall conform to all applicable laws, rules, and regulations for fire protection and safety.

1102.8 Work Exempt from Permitting

The following shall be exempt from permits provided they comply with all Zoning requirements:

- ◆ One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses provided the floor area does not exceed 120 square feet.
- ◆ Fences not over four feet high, or retaining walls not over four feet high.
- ◆ Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.
- ◆ Painting, wallpapering, tiling, floor coverings, trim, cabinetry, counter tops, moveable cases, counters and partitions, appliances, like-for-like replacement for lighting or plumbing fixtures that do not require "rough-in", and similar finish work.
- ◆ Non-structural siding and like-for-like replacement of roofing materials
- ◆ Prefabricated swimming pools
- ◆ Shade cloth structures constructed for nursery or agricultural purposes
- ◆ Swings and playground equipment
- ◆ Window awnings supported by an exterior wall, which do not project more than 54 inches.

Repairs

A permit is not required for ordinary repairs or maintenance of structures, repaving or repair of any previously paved surface or the clearing of stoppages or the repairing of leaks in plumbing supplies or drains. Such repairs shall **not** include the removal or cutting away of any wall, partition, structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements.

Ordinary repairs do not include addition to, alteration of, relocation of any standpipe, water supply, sewer, drainage, gas, oil, waste vent or similar piping, electrical wiring or mechanical or other work affecting public health or general safety.

1102.9 Appeals

Any person aggrieved by a decision of the Building Inspector may appeal to the Zoning Board of Adjustment, which shall serve as the Building Code Board of Appeals. This Board of Appeals may vary the application of any provision of the Building Code in any case when the enforcement or the Building Code would do manifest injustice and would be contrary to the spirit and purpose of the Building Code and the public interest.

1102.10 Amendments

This Ordinance may be amended by a majority vote of any legal town meeting when such

amendment is published in the warrants calling for the meeting.

1102.11 Enforcement

Upon any well-founded information that these Building Regulations or the State Building Code is being violated, the Building Inspector or the Selectmen shall take immediate steps to enforce the provisions of this Ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the above regulations shall be subject to the fines and penalties set forth in RSA 676:17 and shall be liable for costs and attorney's fees incurred by the Town in enforcing the regulations.

1102.12 Takes Effect

This Ordinance shall take effect upon passage.

1102.13 Conflicting Provisions

Wherever the regulations made under that authority hereof differ from those described by statute, ordinance, or other regulations, that provision which imposes the greater restriction, or the higher standard shall govern.

1102.14 Validity

If any section, clauses, provision, portion or phrase of this Ordinance shall be held invalid or unconstitutional by any court of competent authority, such a holding shall not affect, impair, or invalidate any other section, clause provision, portion or phrase of this Ordinance.

(Adopted by official ballot March 2009)

ARTICLE XII: BOARD OF ADJUSTMENT

Section 1201 Creation of the Board of Adjustment

There shall be a Board of Adjustment as provided by NH RSA 673:3,1

Section 1202 Membership of the Board of Adjustment

The Board of Adjustment shall consist of five members. The Selectmen shall annually appoint one or two members for a term of three years. Members of the ZBA in office on the effective date of this Ordinance shall continue to serve their terms and that their successors will be appointed in accordance with the changed Ordinance. The Selectmen shall appoint up to five (5) alternate members of the Board of Adjustment for a term of three years. A member shall be removable by Selectmen upon written notice and after a public hearing. Vacancies for any unexpired term shall be filled by appointment by the Selectmen.

Section 1203 Rules of the Board of Adjustment

The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this Ordinance and NH RSA Chapter 676. Meetings of the board shall be held at the call of the chairman and at such other times as the Board may determine. All meetings of the board shall be open to the public, except executive sessions. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the Office of the Board of Adjustment and shall be public record.

Section 1204 Duties of the Board of Adjustment

The duties and powers hereby conferred upon the Board of Adjustment include those listed below as well as any other power conferred upon such Boards by the Statutes of the State of New Hampshire.

1204.1 Appeals

The Board of Adjustment may hear and decide a case where it is alleged there is an error in any order, requirement, decision, or determination made by any official in the enforcement of this Ordinance.

1204.2 Special Exceptions

- A. The Board of Adjustment may, in appropriate cases, and subject to safeguards as determined by the Board, grant a permit for a special exception. The Board, in acting on an application, shall take into consideration the following conditions:
 - I. The proposed use(s) shall be only those allowed in this Ordinance by Special Exception.
 - II. The specific site is an appropriate location and of adequate size for the use.
 - III. The use, as developed, will not adversely affect the character of the area in which the proposed use will be located.
 - IV. There will be no nuisance or serious hazard to vehicles or pedestrians.
 - V. The use will not place excessive or undue burden on Town services and facilities.
 - VI. There would be no significant effect resulting from such use upon the public health, safety and general welfare of the neighborhood in which the use would be located.
- B. If the Board of Adjustment approves an application for a special exception, it shall impose relevant conditions specified in Section 1204:3 and all other applicable specific standards in

this Ordinance. The Board shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this Ordinance, including, but not being limited to, the following:

- I. Yards larger in area or in any specified dimension than those required by the Ordinance;
 - II. Screening of all or part of the premises of the proposed use by walls, fencing or planting;
 - III. modification of the design of any building involved in the proposed use;
 - IV. Parking facilities greater than those otherwise required under this Ordinance;
 - V. Limitations of the number of occupants or employees upon the premises, and restrictions of the method and/or time of operation and use, and of size or extent of facilities;
 - VI. Limitations upon the size, location and/or lighting of signs more restrictive than those otherwise imposed by this Ordinance, including the prohibition of signs where, in the opinion of the Board, their display would be contrary to the purposes of the Ordinance.
 - VII. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Board of Adjustment.
- C. A special exception shall be void if active and substantial building or development has not begun within two years (24 months) from the date the special exception was granted by the Zoning Board of Adjustment. Special exceptions may be extended once for a period of no more than 12 months by the Zoning Board on receipt of a written request for extension at least 14 days prior to the expiration date of the special exception and following a public hearing upon the request. The applicant shall be responsible for the cost of notification as whether or not to grant the extension, the Board shall consider the circumstances of the applicant's request, any amendments to the Zoning Ordinance, any changes to the neighborhood in which the approved use is located, and any other factors the Board determines to be relevant. (Amended at town meeting 3-8-16).

1204.3 Standards Guiding the Granting of Special Exceptions for Specific Uses

A. Multiple Unit Dwellings in Agricultural Zone

- I. Minimum yard dimensions shall be fifty (50) feet in the front, side and rear.
- II. All lots shall conform to the area requirements as specified in Section 304.

B. Industry, Manufacturing or Industrial Parks

- I. Building Design – All structures are designed with due consideration to existing and proposed neighborhood structures. The design of structures takes advantage of topography, and reflects the character, scale and purpose of the areas of which it is a part.
- II. Traffic Access – All proposed site traffic access ways are adequate but not excessive in number, adequate in grade, width, and alignment and visibility.
- III. Circulation and Parking – The interior traffic circulation and parking system is adequate.
- IV. Landscaping – The proposed site is properly landscaped to further enhance the natural qualities of the land. Where adjacent land use dictates, proper screening and buffer zones may be required. Where, in the opinion of the Planning Board, an industrial process or product is of potentially explosive nature, landscaping may include blast containment, blast dampening or blast channel features.
- V. Water and Sewage – Availability of adequate water and sewage treatment capabilities for the proposed use.
- VI. Pollution – All resulting emissions must comply with appropriate State and Federal regulations.
- VII. Noise – noise level at the property line shall not exceed 70 decibels.
- VIII. Flashing and Vibrations – Objectionable flashing and vibrations shall not occur.

C. Rooming House

- I. In addition to the minimum lot size requirements established elsewhere in this Ordinance, a minimum lot size of 1,000 square feet shall be required for every occupant, but in no case

shall the total area of the lot be less than 11,000 square feet.

- II. A Rooming House must be occupied by the owner or an on-site manager, who shall be responsible for the safe, efficient and harmonious operation of the dwelling.
- III. The total occupancy of a Rooming House, including the owner or an on-site manager, shall be no greater than 16 residents.

D. Off-Site Parking Facility

- I. The proposed off-site parking facility must be located on land owned by, leased to, or legally reserved for the owner of the use for which the parking facility is provided.
- II. The proposed off-site parking facility must be reasonably necessary.
- III. The proposed off-site parking facility must be compatible to the spirit and terms of this Ordinance.
- IV. The proposed off-site parking facility must be within 300 feet of the use for which the parking facility is provided.

E. Parking Spaces within five (5) feet of a property line in Multi-Family Residential and civic Industrial zones

- I. A detailed plan showing the layout, dimensions, screening, curbing, and number of parking spaces must be submitted with the application for Special Exceptions
- II. Parking spaces must be screened by fencing, shrubs or other means
- III. The curb cut to access the parking space or parking facility shall be appropriate to the use, but must not exceed twenty (20) feet in width
- IV. Individual parking spaces must be clearly designated
- V. An agreement to maintain the screening and parking area must be signed by the property owner. Such agreement shall be reviewed and approved by the ZBA. Such agreement shall be binding on the applicant and successor interests and be recorded at the Registry of Deeds at the owner's expense. A violation of this agreement shall be deemed a violation of the Zoning Ordinance.

F. Residential Uses in the Village Commercial Zone

- I. For units occupied by a related family, two (2) parking spaces per unit shall be provided
- II. For units occupied by an unrelated family, one (1) parking space per bedroom shall be provided
- III. The facade, including windows, shall be residential in character
- IV. Window signs are not permitted in the windows of residential units

G. Accessory Family Dwelling

- I. The accessory unit shall not be distinguishable as such from the outside of the house. In other words, the house shall look like a single-family house from the outside and not like two or more dwelling units.
- II. There shall only be one mailbox at the property.
- III. There shall be off-street parking available to accommodate the residents of the single-family residence and the accessory family dwelling, which shall consist of at least three spaces unless the Zoning Board of Adjustment finds a fewer number to be adequate in the particular circumstances.
- IV. There shall only be one driveway serving the dwelling.
- V. The septic system, if the dwelling is not on public sewer, shall be designed to accommodate the proposed number of bedrooms.
- VI. The unit shall not be converted for non-family rental, and occupancy shall cease whenever not needed for related family members of the owner(s) of the primary dwelling. Any special exception shall specify the number of related family members permitted to occupy the accessory unit, and any increase in that number shall require further special exception.

1204.4 Variances

- A. The Board of Adjustment may authorize a variance from the terms of this Ordinance, where the Board of Adjustment finds that all of the following conditions apply
 - I. Granting the variance will not diminish the value of surrounding properties.
 - II. The variance will not be contrary to the public interest.
 - III. Denial of the variance would result in unnecessary hardship to the applicant upon proof that:
 - a. The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in its environmental
 - b. No fair and substantial relationship exists between the general purposes of the Zoning Ordinance and the specific restriction on the property; and
 - c. The variance would not injure the public or private rights of others.
 - IV. Granting the variance would do substantial justice
 - V. The use will not be contrary to the spirit and intent of the ordinance.
- B. In authorizing a variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community, including but not limited to a time limit when the variance will expire if not utilized.
- C. A variance shall be void if active and substantial building or development has not begun within two years (24 months) from the date the variance was granted by the Zoning Board of Adjustment. Variances may be extended once for a period of no more than 12 months by the Zoning Board on receipt of a written request for extension at least 14 days prior to the expiration date of the variance and following a public hearing upon the request. The applicant shall be responsible for the cost of notification as required by the Zoning Board of Adjustment Rules of Procedure. In deciding whether or not to grant the extension, the Board shall consider the circumstances of the applicant's request, any amendments to the Zoning Ordinance, any changes to the neighborhood in which the approved use is located, and any other factors the Board determines to be relevant. (Amended at town meeting 3-8-16).

1204.5 Decisions

- A. In exercising the above mentioned power, the Board of Adjustment may, in conformity with the powers granted to it by NH RSA Chapter 673, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from any may make such order or decision as ought to be made and to that end shall have the powers of the officer from whom the appeal is taken.
- B. The concurring vote of three members of the Board shall be necessary to reverse any action of an administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Ordinance.

Section 1205 Procedure for Submitting Appeals and Applications to the Board of Adjustment

1205.1 Application for Procedure

All appeals and applications to the Board of Adjustment shall be in writing. Every appeal or application shall refer to the specific provision of the Ordinance involved, and shall set forth the interpretation, the special exception, or the variance for which application is being made. The cost of advertisement and mailing shall be payable by the appellant prior to the required public hearing. Failure to pay such costs shall constitute valid grounds for the Board to terminate further consideration and to deny the appeal or application without public hearing.

1205.2 Public Hearing and Notice to Abutters

Whenever a notice of appeal is filed or an application is made for a variance or special exception, the Board of Adjustment shall hold a public hearing, and notice shall be given as follows: The appellant and all of the abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of the hearing, and such notice shall be given not less than five (5) days before the date fixed for the hearing of the appeal or application. A public notice of the hearing shall be placed in a newspaper of general circulation in Plymouth not less than five (5) days before the date fixed for the hearing of the appeal or application. The public hearing shall be held within thirty (30) days of the receipt of the notice of appeal or application.

1205.3 Notice to Other Boards

In addition to the notices sent as described above, the Board shall also send such a notice to the Planning Board and to the Board of Selectmen, and either Board shall be proper party to appear and be heard upon any such appeal or application. Upon the entry of any decision, report, or order in such a proceeding, the Board of Adjustment shall cause a copy to be sent to the Planning Board. In those proceedings before the Board of Adjustment at which the Planning Board submits its recommendations, such recommendations shall be in the same format as that required of the Board of Adjustment in reporting its decision.

1205.4 Continuation of Hearing

The hearing shall not be continued to another time except for good cause, and if so requested by the applicant, all advertising costs shall be borne by the applicant.

1205.5 Decisions Following Public Hearing

Following the public hearing the Board shall act promptly to vote to deny, approve, conditionally approve, or approve with modifications the appeal variance, or special exception. The Board of Adjustment shall state in writing in sufficient detail its reason as to granting or denial of a special exception or variance with particular reference to the standards or conditions applicable thereto. The Board of Adjustment shall then inform the applicant in writing and the Board of Selectmen of its decision. The decision shall be placed on file in the Office of the Board of Adjustment and made available for public inspection within 72 hours after the decision is made.

Section 1206 Rehearing and Appeal Procedures

Whenever a person or a municipally seeks a rehearing of a zoning related order or decision the procedures enacted under RSA Chapter 677 shall be followed.

ARTICLE XIII: MISCELLANEOUS PROVISIONS

Section 1301 Saving Clause

The validity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

Section 1302 Amendments

Amendments to this ordinance shall be made in accordance with the procedures enacted under RSA 675:3

Section 1303 Effective Date

In effect upon passage.

ARTICLE XIV: ZONE BOUNDARY DESCRIPTIONS

Section 1401 Single-Family Residential

Beginning at the junction of Winter Street and Warren Street and going easterly along Warren Street to Route 3. Then southerly along Route 3 to a point on the west side of Route 3 and the south end of Crystal Springs, then southerly in a straight line to a point 1,550 feet west of Route 3 and 1,000 feet north of Cummings Hill Road. Then westerly, parallel to the 1000 feet north of Cummings Hill to Thurlow Street Extension. Then westerly, parallel to and 1000 feet north of Glove Hollow Brook for 4000 feet. Then northerly in a straight line to the bridge over Tannery Brook on Texas Hill Road. Then northerly in a straight line to the junction of Binks Hill Road Extension and Binks Hill Road. Then westerly, perpendicular to Binks Hill Road, for 300 feet. Then northerly, parallel to and 300 feet west of Binks Hill Road, to a point 300 feet south of Reservoir Road. Then westerly, parallel to and 300 feet south of Reservoir Road, to a point south of the old concrete water tank (on a line perpendicular to Reservoir Road). Then northerly to the new water tank. Then easterly, about 200 feet to a brook. Then northerly along the brook to a point 400 feet south of the southern bank of the Baker River. Then easterly, parallel to and 400 feet south of the bank of the Baker River to Old Ward Bridge Road. Then southerly, along Old Ward Bridge Road to a point 200 feet north of Tamarack Drive. Then easterly, parallel to and 200 feet north of Tamarack Drive, for 1500 feet. Then southerly, parallel to and 1500 feet east of Old Ward Bridge Road, to a point 400 feet north of Highland Street. Then easterly, parallel to and 400 feet north of Highland Street, to a point north of the junction of Highland and Broadway Streets. Then northerly, in a straight line, parallel to and 500 feet west of Batchelder Street to a point 400 feet north of Merrill Street (approximately 1800 feet). Then easterly, parallel to and 400 feet north of Merrill Street to a point 400 feet west of Langdon Park Road. Then northerly, parallel to and 400 feet west of Langdon Park Road to a point 800 feet south of the Baker River. Then easterly, 800 feet south of the Baker River, to a point 700 feet north of Merrill Street. Then easterly, parallel to and 700 feet from Merrill Street, to a point 400 feet east of Langdon Park Road. Then southerly, parallel to and 400 feet east of Langdon Park Road, a point 200 feet south of Merrill Street. Then easterly, parallel to and 200 feet south of Merrill Street to a point 200 feet west of Langdon Street. Then southerly, parallel to and 200 feet west of Langdon Street to a point 200 feet north of Highland Street. Then westerly parallel to and 200 feet north of Highland Street to Emerson St. Then southerly along the center of Emerson St. to Highland St. Then westerly along Highland St. to a point opposite Cooper Street. Then south along Cooper Street to Hawthorne Street. Then easterly along Hawthorne Street to Avery Street. Then southerly on Avery Street to Cummings Street. Then easterly along Cummings Street to Langdon Street. Then southerly on Langdon Street to a point 200 feet north of Pleasant Street. Then easterly parallel to and 200 feet north of Pleasant Street to opposite Winter Street. Then southerly along Winter Street to Warren Street (the beginning point).

Section 1402 Multi-Family Residential

1402.1 South

Beginning at the junction of Winter and Warren Streets and going easterly along Warren Street to a point 250 feet west of Main Street. Then northerly, parallel to and 250 feet west of Main Street to the south side of Highland Street. Then westerly along Highland Street to a point 200 feet west of Russell Street. Then southerly, parallel to and 200 feet west of Russell Street to a point opposite Winter Street. Then southerly on Winter Street to the junction of Warren Street (the point of beginning).

1402.2 Central

Beginning at a point on Highland Street 100 feet east of Langdon Street, then northerly parallel to and

100 feet east of Langdon Street to School Street. Then easterly along School Street 100 feet. Then northerly, parallel to and 200 feet east of Langdon Street to Merrill Street. Then northerly, parallel to and 400 feet east of Bayley Avenue, for 700 feet. Then westerly, parallel to and 700 feet north of Merrill Street, to a point 400 feet east of Langdon Park Road. Then southerly, parallel to and 400 feet east of Langdon Park Road, to a point 200 feet south of Merrill Street. Then easterly, parallel to and 200 feet south of Merrill Street to a point 200 feet west of Langdon Street. Then southerly, parallel to and 200 feet west of Langdon Street to a point 200 feet north of Highland St. Then westerly parallel to and 200 feet north of Highland St. to Emerson St. Then southerly along the center of Emerson St. to Highland St. Then easterly along Highland Street to a point 100 feet east of Langdon Street (the point of beginning).

1402.3 Northeast

Beginning at the junction of Tobey Road and Main Street and going westerly along Tobey Road to Armory Road. Then northerly along Armory Road for 450 feet. Then easterly on a line perpendicular to Armory Road to Main Street. Then south along Main Street to the junction of Tobey Road (the beginning point).

Section 1403 Civic/Institutional

Beginning 800 feet south of the south edge of the bridge on Main Street over the Baker River and going westerly, parallel to and 800 feet south of the Baker River, to Old Ward Bridge Road. Then southerly, along Old Ward Bridge Road to a point 200 feet north of Tamarack Drive for 1500 feet. Then southerly, parallel to and 1500 feet east of Old Ward Bridge Road, to a point 400 feet north of Highland Street. Then easterly, parallel to and 400 feet north of Highland Street, to a point north of the junction of Highland Street and Broadway Streets. Then northerly in a straight line, parallel to and 500 feet west of Batchelder Street, to a point 400 feet north of Merrill Street (about 1800 feet). Then easterly, parallel to and 400 feet north of Merrill Street, to a point 400 feet west of Langdon Park Road. Then northerly, parallel to and 400 feet west of Langdon Park Road, for 300 feet. Then easterly, parallel to and 700 feet north of Merrill Street, to a point 400 feet east of Bayley Avenue. Then southerly, parallel to and 400 feet east of Bayley Avenue, to Merrill Street. Then southerly, parallel to and 200 feet east of Langdon Street, to School Street. Then westerly along School Street to a point 100 feet east of Langdon Street. Then southerly, parallel to and 100 feet east of Langdon Street to Highland Street. Then westerly along Highland Street to Cooper Street. Then south along Cooper Street to Hawthorne Street. Then easterly along Hawthorne Street to Avery Street. Then south along Avery Street to Cummings Street. Then easterly, along Cummings Street to Langdon Street. Then southerly along Langdon Street to a point 200 feet north of Pleasant Street. Then easterly, parallel to and 200 feet north of Pleasant Street, to a point 200 feet west of Russell Street. Then northerly, parallel to and 200 feet west of Russell Street, to Highland Street. Then easterly along Highland Street to the southeast corner of the Commons. Then northerly along Main Street to Court Street. Then westerly along Court Street for 350 feet. Then northerly, parallel to and 350 feet west of Main Street, to Weeks Street. Then northerly along Weeks Street to Tobey Road. Then westerly along Tobey Road to Armory Road. Then northerly along Armory Road for 450 feet. Then easterly on a line perpendicular to Armory Road to Main Street. Then northerly along Main Street to a point 800 feet south of the south edge of the bridge over the Baker River (the beginning point).

Section 1404 Village Commercial

Beginning at the southeast corner of the intersection of Weeks Street and Merrill Street and going easterly along Merrill Street and crossing Main Street in the line produced to the west bank of the Pemigewasset River. Then southerly along the west bank of the Pemigewasset River to a point 600 feet south of Bridge Street. Then westerly, parallel to and 600 feet south of Bridge Street, to the

railroad tracks. Then southerly, along the railroad tracks to a point east of the northern corner of the junction of Route 3. Then northerly along Route 3 to Warren Street. Then westerly along Warren Street to a point 250 feet west of Main Street. Then northerly, parallel to and 250 feet west of Main Street, to the south side of Highland Street. Then easterly along Highland Street to the southeast corner of the town commons. Then northerly along Main Street to Court Street. Then westerly along Court Street for 350 feet. Then northerly, parallel to and 350 feet west of Main Street, to Weeks Street. Then northerly along Weeks Street to Merrill St. (the beginning point). (adopted by warrant article 3/10/09)

Section 1405 Highway Commercial

Beginning at the southeast corner of the intersection of Weeks Street and Merrill Street and going easterly along Merrill Street and crossing Main Street in the line produced to the west bank of the Pemigewasset River. Then northerly, along the Pemigewasset River, to the Plymouth/Campton town line. Then west along the Plymouth/Campton town line to 500 feet west of the Right of Way for Interstate 93. Then southerly, parallel and 500 feet west of Interstate 93 Right of Way, for 1000 feet (which is 500 feet west of the Route 3 underpass with I93). Then south, parallel to and 500 feet west of Route 3, to a point 200 feet south of Fairgrounds Road. Then east, parallel to and 200 feet south of Fairgrounds Road, to Route 3. Then south, along Route 3, to the south bank of the Baker River. Then westerly along the south bank of the Baker River to a point 600 feet west of Main Street. Then southerly parallel to and 600 feet west of Main Street to a point 800 feet south of the Baker River. Then easterly, parallel to and 800 feet south of the Baker River to Main Street. Then southerly along Main Street to Tobey Road. Then westerly along Tobey Road to Weeks Road. Then southerly along Weeks Street to the southeast corner of the intersection of Weeks Street and Merrill Street. (the beginning point). (adopted by warrant article 3/10/09)

Section 1406 Industrial and Commercial Development

Along Route 25 (Tenney Mountain Highway) and beginning at the west side of the bridge over the Baker River and going westerly, bounded on the north by Zone A of the Flood Insurance Rate Map dated May 3, 1982, or 300 feet north of the center line of the highway, whichever is smaller, to Sanborn Mill Brook. Then following the brook upstream (southerly) to a point 2,500 feet south of Tenney Mountain Highway. Then easterly, parallel to and 2,500 feet south of Tenney Mountain Highway to Clay Brook. Then easterly in a straight line to the junction of Highland Street and Old Route 25. Then continuing easterly along Highland Street, to the unnamed brook east of the easterly junction with Old Route 25 that forms the boundary of the Residential, Single Family zone. Then turning northerly and following the brook downstream to the southerly bank of the Baker River. Then westerly, along the Baker River to the western side of the Tenney Mountain Highway bridge, crossing the river, to the point of beginning.

Section 1407 Agricultural

Includes all lands not described in Sections 1401, 1402, 1403, 1404, 1405 or 1406.