



TOWN OF PEMBROKE

Town Hall ~ 311 Pembroke Street, Pembroke, New Hampshire 03275 Tel: 603-485-4747

PEMBROKE PLANNING BOARD NOTICE OF PUBLIC HEARING 2024 ZONING AMENDMENTS Town of Pembroke Zoning Ordinance January 9, 2024

Notice is hereby given that the Pembroke Planning Board will hold a first public hearing on Tuesday, January 9, 2024 beginning at 6:30pm at the Pembroke Town Hall, 311 Pembroke Street, Pembroke, NH for the purpose of taking input regarding the following proposed changes to the Town of Pembroke Zoning Ordinance for the March 12, 2024 Town Meeting. Proposed language is bold and underlined. Struck language is crossed through. Full-text copies of the proposed zoning amendments are available in the Planning Office and Town Clerk Office for public inspection during regular business hours: Mon-Fri, 8:00am-4:30pm. For more information call the Planning Office at (603) 485-4747 x.1210.

ZONING AMENDMENTS FOR 2024 TOWN MEETING PROPOSED BY THE PLANNING BOARD

Amendment #1

Are you in favor of the adoption of Amendment #1, as proposed by the Planning Board, for the Pembroke Zoning Ordinance as follows: amend Article VIII, Signs to remove content-based regulations in accordance with the 2014 Supreme Court ruling on content-neutrality as it relates to the first amendment, reformat the Ordinance to be user-friendly, and amend 143-28.G. Minor Home Business, §143-29.G. Major Home Business, §143-30.1.D.(5) Office Conversion, and §143-42.F. Commercial Kennels as they relate to signs and content-neutrality. No substantive changes are proposed to the regulations?

The purpose of Amendment #1 is to comply with a 2014 Supreme Court ruling on first amendment rights relative to the Zoning Ordinance and to improve formatting of the Sign Ordinance. No substantive changes are included in this amendment. See Appendix A for full edits.

Amendment #2

Are you in favor of the adoption of Amendment #2, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend Article VIII, Signs to allow off-premise signs in the B1, B2, and LO Districts by special exception of the Zoning Board?

The purpose of Amendment #2 is allow off-premises signs in the B1, B2, and LO Districts by special exception where they are currently prohibited.

Amendment #3

Are you in favor of the adoption of Amendment #3, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend Article VIII, Signs to allow signs to cover window sills and architectural molding?

- (1) Such sign shall not obscure architectural features such as, but not limited to, arches, ~~sills, moldings,~~ cornices and transoms, of the building to which said sign is affixed.

The purpose of Amendment #3 is to allow signs to cover window sills and architectural molding, which is currently prohibited.

Amendment #4

Are you in favor of the adoption of Amendment #4, as proposed by the Planning Board, for the Pembroke Zoning Ordinance as follows: amend §143-8, Definitions and §143-69, Floodplain Development District as necessary to comply with requirements of the National Flood Insurance Program?

The purpose of Amendment #4 is to adopt FEMA-mandated amendments to remain in compliance with the National Flood Insurance Program. See Appendix B for full edits.

Amendment #5

Are you in favor of the adoption of Amendment #5, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend the provisions regarding Manufactured Housing Parks by inserting proper references to the Table of Dimensional and Density Standards, which was updated last year?

- C. The minimum lot size, side, rear, and front setbacks shall be 80% of the minimum size required under Columns A, F, G, and H of § 143-21 **the Table of Dimensional and Density Standards;**
- D. Any proposed lot within the tract shall have frontage of at least 80% of the applicable lot frontage from Column B of § 143-21 **the Table of Dimensional and Density Standards;**

The purpose of Amendment #5 is a clean-up item to update a reference to the Table of Dimensional and Density Standards, which was reformatted last year.

Amendment #6

Are you in favor of the adoption of Amendment #6, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to remove from the purposes of the Wetlands Protection District the purpose of “encouraging uses that can be appropriately and safely located in wetland areas”?

The purpose of Amendment #6 is to clarify that uses in the wetlands are not encouraged, as identified in the 2020 Pembroke Master Plan.

Amendment #7

Are you in favor of the adoption of Amendment #7, as proposed by the Planning Board, for the Pembroke Zoning Ordinance to amend Article IXA Soucook River (SR) Development District to add a new section §143-72.23. to allow residential use, not to exceed 50% of total development, by special use permit of the Planning Board?

The purpose of Amendment #7 is allow for mixed use in the SR District by special use permit only. See Appendix C for full edits.

Appendix A

ARTICLE VIII - Signs (§ 143-57 — § 143-66)

§ 143-57 Purpose.

[Amended 3-14-2017 Town Meeting Amendment No. 2]

The purpose of this article is to:

- A. Promote the safety, comfort and well-being of the users of streets, roads and highways and enhance and preserve the aesthetics in the Town of Pembroke;
- B. Reduce distractions and obstructions caused by signs, which would adversely affect traffic safety, and ~~to~~ alleviate hazards caused by signs projecting over or encroaching upon public ways, including but not limited to, enforcement of RSA 236:6 and RSA 265:14;
- C. Discourage excessive visual competition in signage and ensure that signs aid orientation and adequately identify uses and activities to the public; and
- D. Preserve or enhance town character by requiring new and replacement signage which is:
 - (1) Creative and distinctive;
 - (2) Compatible with the surroundings;
 - (3) Appropriate to the type of activity to which it pertains; and
 - (4) ~~Is~~ Appropriately sized and its context readable.

§ 143-58 General requirements.

[Amended 3-14-2017 Town Meeting Amendment No. 2]

- A. The following are prohibited in all districts unless stated otherwise herein:
 - (1) Signs which physically or visually move, rotate, or create an illusion of movement, or which have parts or surfaces that physically or visually move, rotate, or create the illusion of movement, or which emits audible sounds, noises, or visible matter; ~~and~~ **[Added 3-17-2012 Town Meeting by Amendment No. 2]**
 - (2) ~~Signs~~ which appear animated or projected, or which are intermittently or intensely illuminated or of a traveling, tracing, scrolling or sequential light type, or signs which contain or are illuminated by animated or flashing light. **[Added 3-17-2012 Town Meeting by Amendment No. 2]**

B. Placement standards:

- (1) No sign shall be mounted on a roof, or extend above the roof line;
- (2) No projecting sign shall extend into a vehicular public way, or be less than 10 feet above a pedestrian way;
- (3) ~~—~~ No sign, together with its supporting framework, shall extend to a height above the maximum building height allowed in that particular district; ~~and~~
- (4) No sign, sign supports or other accessories shall be placed within the ~~—~~ public right-of-way, except with express permission from the town or for signs erected by government units or agencies, or as otherwise allowed by state or federal law, including but not limited to, RSA 664:17 and hunting/ trespassing signage. ~~Any such signs otherwise allowed by state or federal law shall not be included in calculating a property's permissible signage otherwise allowed by this ordinance; and-~~
- (5) No sign shall be closer than ten feet from any lot line. **[Added 3-10-2020 Town Meeting Amendment No. 3]**

C. Safety standards:

No Person may erect a sign which:

- (1) Is constructed contrary to the standards contained in the State Building Code RSA 155 adopted by the State of New Hampshire; **[Amended 3-17-2012 Town Meeting by Amendment No. 2]**
- (2) Is structurally unsafe; **[Amended 3-17-2012 Town Meeting by Amendment No. 2]**
- (3) Constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation or abandonment;
- (4) Obstructs free entrance or exit from a required door, window or fire escape; or
- (5) Obstructs light, or air, or interferes with the proper functioning of the building.;

<u>No Person may erect a sign which is:</u>	
(1)	Is constructed contrary to the standards contained in the State Building Code RSA 155 adopted by the State of New Hampshire. [Amended 3-17-2012 Town Meeting by Amendment No. 2]

(2)	Is structurally unsafe; [Amended 3-17-2012 Town Meeting by Amendment No. 2]
(3)	Constitutes a hazard to public safety and health by reason of inadequate maintenance, dilapidation or abandonment;
(4)	Obstructs free entrance or exit from a required door, window or fire escape; or
(5)	Obstructs light, or air, or interferes with the proper functioning of the building;

D. Measurement of sign area: Sign measurement shall be based upon the entire area of the sign, with a single continuous perimeter enclosing the extreme limits of the actual sign surface.

(1) ~~For signs painted on or applied to a building: The area shall be considered to include all letters, wording and accompanying designs or symbols together with any background of a different color than that of the natural color of finish material of the building.~~

(2) ~~For signs consisting of individual letters or symbols attached to or painted on a surface, a building wall, or window: The area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.~~

(3) ~~For signs having two or more faces: The area of all faces shall be included in determining the area, except where two faces are placed back to back and are at no point more than two feet from each other. In cases of this nature, the sign area shall be taken as the area of either face, and, if the faces are unequal, the larger shall determine the area.~~

(4) ~~The area of supporting framework (for example, brackets, posts, etc.) shall not be included in the area so long as said framework carries no symbols or lettering and is solely incidental to the display.~~

E. Measurement of height: The height of any sign shall be measured from the surface of the natural grade at the base of the sign to the highest point of said sign.

F. Number of Signs: The maximum number of signs permitted by this article shall be as follows:

(1) R1 Medium Density Residential District: one

(2) R3 Rural/Agricultural Residential District: one

Commented [CC1]: Took this out of Table format to be consistent with rest of article. Corrected names of zoning districts.

(3) B1 Business/Residential District: two*

(4) B2 Central Business District: two*

(5) LO Limited Office District: two*

(6) C1 Commercial/Light Industrial: three*

*or one sign per lot and one sign per use, whichever is greater.

<u>R1 Residential Home Occupation (Minor or Major)</u>	<u>one</u>
<u>R3 Residential Home Occupation (Minor or Major)</u>	<u>one</u>
<u>B1 Business/Residential District</u>	<u>two*</u>
<u>B2 Central Business District</u>	<u>two*</u>
<u>LO Limited Office</u>	<u>two*</u>
<u>C1 Commercial/Industrial</u>	<u>three*</u>
<u>* or one sign per lot and one sign per use whichever is greater.</u>	

[Amended 3-08-2011 Town Meeting by Amendment No. 4]

GF. Non-conforming signs:

- (1) ~~Continuance:~~ A non-conforming sign lawfully existing at the time of adoption or subsequent amendment of this section may continue, although such sign does not conform to the provisions of this section, unless, however, said sign poses a safety problem as defined in § **143-58** (C) Safety Standards.
- (2) ~~Maintenance:~~ Any lawfully existing sign cannot be enlarged, redesigned or altered in any way, except to conform to the requirements of this section. This does not include rewording or re-coloring of signs where such changes do not increase non-conformance relative to the existing sign. Furthermore, any such sign which has deteriorated to such an extent that the cost of restoration would exceed 35% of the replacement cost, that sign shall not be repaired or rebuilt or altered, except to conform to the requirements of this section. **[Amended on 3-11-2014 Town Meeting Amendment No. 7]**
- (3) ~~Replacement:~~ Any sign replacing a non-conforming sign shall conform to the provisions of this article; and the non-conforming sign shall no longer be displayed.

H. Nothing in this ordinance is intended to be in conflict with the Manual on Uniform Traffic Control Devices (MUTCD).

Commented [CC2]: Replacement for Public Service Signs section.

I. Any such signs otherwise allowed by state or federal law shall not be included in calculating a property's permissible signage otherwise allowed by this ordinance.

Commented [CC3]: Relocated from Section 143-58.B.(4) per attorney's comments

§ 143-59 Administration.

[Amended 3-14-2017 Town Meeting Amendment No. 2]

A. Permits: No sign shall be erected, displayed, altered or enlarged until an application has been filed, and a permit for such action has been issued subject to the following:

~~(a)~~(1) Applications shall be on forms prescribed by the Code Enforcement Officer;

~~(b)~~(2) At a minimum, all applications shall include drawing specifying dimensions, materials, illumination, letter size, colors, support systems and location on the lot or building(s), with all relevant measurements;

~~(c)~~(3) Permits shall be issued only if the Code Enforcement Officer determines that the sign complies with, or will comply with, all applicable provisions of this article;

~~(d)~~(4) Such application may be filed by the owner of the land or building, or any person who has the authority to erect a sign on the premises;

~~(e)~~(5) The Code Enforcement Officer shall act within 30 days of receipt of such application together with any required fee;

~~(f)~~(6) The Code Enforcement Officer's action of lack thereof may be appealed to the Board of Adjustment under the provisions of Article **XIV** of this Chapter; and

~~(g)~~(7) A special exception application for signs in all districts which require a special exception shall be referred to the Board of Adjustment which shall hold a public hearing on the applications as per the requirements of § **143-113** and § **143-119** of this Chapter.

B. Fees: A schedule of fees for sign permits may be established and amended from time to time by the Board of Selectmen.

C. Enforcement: The Code Enforcement Officer is hereby authorized to enforce this article by ordering the repair or removal of any sign and its supporting structure which is judged to be dangerous, or in disrepair, or which is erected or maintained contrary to the provisions of this article.

D. Removal of signs: Any sign which has been ordered removed by the Code Enforcement Officer, or which is abandoned or discontinued, shall be removed by the

person, firm or corporation responsible for the sign within 14 days of written notice to remove the same. The Code Enforcement Officer may cause the removal of any sign placed on public property or that constitutes a safety hazard. **[Amended 3-8-2005 Town Meeting by Amendment No. 9]**

- E. Penalties: Violation of any provision of this article or of any lawful order of the Code Enforcement Officer shall be subject to a fine as per § **143-128** of this Chapter.
- F. The invalidity of any provision of this ordinance shall not affect the validity of any of the provisions. If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding will not affect or impair any other section, clause, provision, or portion of this ordinance.

§ 143-60 ~~Sign regulations~~Reserved.

~~[Amended 3-14-2017 Town Meeting Amendment No. 2]~~

~~In the following Dimensional Table of Signs the symbols shall mean:~~

- ~~A. Signs permitted by right in the district shall be designated by the letter (P). Those signs that may be permitted by special exception in that district, in accordance with Article XIV, shall be designated by the letter (S). A sign listed in the Dimensional Table of Signs and denoted with a dash (-) is not permitted in that district.~~
- ~~B. The number on the second line shall indicate the total square feet allowed for/in signage on that particular lot.~~
- ~~C. The letter (V) shall indicate that the size of the permitted sign varies.~~

§ 143-61 ~~Signs subject to special conditions~~Reserved.

~~A permitted sign or sign permitted by special exception for which there is any reference in the column of the Dimensional Table of Signs entitled Special Conditions must meet such conditions as are referred to in that column.~~

§ 143-62 ~~Reserved~~Dimensional Table of Signs.

~~[Amended 3-14-2017 Town Meeting Amendment No. 2]~~

~~Signs permitted in each district shall be as set forth in the following Dimensional Table of Signs:~~

~~[Amended 3-08-2011 Town Meeting by Amendment No. 4]~~

TYPE	R1	R3	B1	B2	C1	LO	Special Conditions
Awning	-	-	P	P	P	P	

Commented [CC4]: Relocated all information into Sign Type sections.

TYPE	R1	R3	B1	B2	C1	LO	Special Conditions
			V	V	V	V	
Electronic Changing Signs [Added 3-17-2012 Town Meeting by Amendment No.3]	-	-	-	-	P	-	
Free Standing	S	S	P	P	P	P	143-113
	6	6	20	20	85	12	
Number per Lot	4	4	2	2	3	2	
Marquee	-	-	S	S	S	S	143-113
			1 sf/	1 sf/	1 sf/	1 sf/	
			1 lf	1 lf	1 lf	1 lf	
Multiple	-	-	P	P	P	P	
				16	16	16	
Off-Premise					P		
					12		
Painted Wall	-	-	S 1.5 sf/	S 1.5 sf/	S 1.5 sf/	S 1.5 sf/	143-113
			1 lf	1 lf	1 lf	1 lf	
Projecting flat	-	-	P	P	P	P	
			10	10	10	10	
Projecting 3D	-	-	S	S	S	S	143-113
			9	9	9	9	
Wall	-	-	P	P	P	P	

Commented [CC4]: Relocated all information into Sign Type sections.

TYPE	R1	R3	B1	B2	C1	LO	Special Conditions
			1.5 sf/	1.5 sf/	1.5 sf/	1.5 sf/	
			1-lf	1-lf	1-lf	1-lf	
			or 10%	or 10%	or 10%	or 10%	
Window	P	P	P	P	P	P	
	25%	25%	25%	25%	25%	25%	
Portable Signs	P	P	P	P	P	P	
	12	12	12	12	12	12	
Adult Entertainment Use [Added 3-14-2000 Town Meeting by Amendment No. 3	-	-	-	-	P	-	§ 143-63(K)

Commented [CC4]: Relocated all information into Sign Type sections.

SPECIAL SIGN CONDITIONS FOR ILLUMINATED SIGNS								
TYPE	R1	R3	HB	B1	B2	C1	LO	Special Conditions
ILLUMINATED- External	S	S	S	P	P	P	P	§ 143-64 (A)
ILLUMINATED- Internal	-	-	P	P	P	P	P	§ 143-64 (B)
ILLUMINATED- Neon	-	-	-	S	S	S	S	§ 143-64 (B)

Commented [CC5]: Relocated this information to Illuminated Signs (143-64)

§ 143-63 Special conditions for specific types of signs Sign regulations by type of sign.

In addition to the standards set forth in the Dimensional Table of signs, signs shall also adhere to the following special conditions:

Commented [CC6]: Delete because Table of Signs is gone.

~~A. Minor home occupation: One sign displaying the identification of an on premise minor home occupation. There shall be no advertising on the premises other than the following: [Amended 3-8-2011 Town Meeting by Amendment No. 4]~~

~~(1) A single non illuminated sign which shall not exceed two square feet in area and which may only identify the occupant's name and address; and~~

~~(2) The street address of the premises shall be no larger than four inches in height.~~

~~B. Major home occupation: One sign displaying the identification of an on premise major home occupation. There shall be no advertising on the premises other than the following: [Amended 3-8-2011 Town Meeting by Amendment No. 4]~~

~~(1) A single non illuminated sign which shall not exceed three square feet in area and which may only identify the occupant's name and address; and~~

~~(2) The street address of the premises shall be no larger than four inches in height.~~

~~C. (Removed) [Amended 3-08-2011 Town Meeting by Amendment No. 4]~~

~~A. Awning: A sign painted on or attached to the cover of a movable metallic frame of the hinged, rolled, or folding type of awning or the cover of a fixed metallic frame. [Amended on 3-11-2014 Town Meeting by Amendment No. 2]~~

~~(1) Awning signs are permitted in the B1, B2, C1, and LO Districts.~~

~~(a)(2) Such sign must be painted on or attached flat against the surface of the awning, but not extend beyond the valance or be attached to the underside.~~

~~(b)(3) Letters or symbols shall not exceed 10 inches in height.~~

~~(c)(4) A minimum of eight feet above the sidewalk level must be allowed for pedestrian clearance.~~

~~E. Construction: An on premise sign identifying the contractor, architect, landscape architect, and/or engineer's name, address, and other pertinent information.~~

~~(1) Such signs shall not exceed 12 square feet in area, and shall be set back at least 10 feet from the street lot line, or one half (1/2) the building set back distance, whichever is less; and~~

~~(2) Such a sign may be maintained on the building or property for the interim of construction, and not more than 30 days following the completion of said construction.~~

Commented [CC7]: Removed because content-related. Will be addressed under a new "Freestanding Signs in Residential Zones" section.

Commented [CC8]: Removed because content related. Will be addressed under a new Temporary Signs section.

~~F. For Sale/Rent/Lease: An on-premise sign advertising the property being sold or rented.~~

Commented [CC9]: Removed because content related. Will be addressed under a new Temporary Signs section.

~~(1) Such signs shall not exceed six square feet;~~

~~(2) Such signs shall advertise only the property on which the sign is located; and~~

~~(3) A maximum of one such sign may be maintained on any property being sold or rented, and it shall be removed by the owner or agent within 30 days of sale, rent, or lease.~~

B. Temporary Signs: A Signs displayed for a limited time and intended to be removed after the temporary purpose has been served. Examples of temporary signs include for sale, lease, or rent signs, construction signs, yard sale signs, and special event signs.

(1) Temporary signs are permitted in all Zoning Districts.

(2) Temporary signs shall not exceed 12 square feet in area.

(3) Such a sign may be maintained on the building or property for not more than 30 days after the temporary purpose has been served.

(4) Removal of Political Advertising: Signs subject to RSA 664:17 may be removed by town law enforcement or town maintenance personnel in accordance with said RSA.

C. Freestanding Signs (in Commercial Districts): A self-supporting sign not attached to any building, wall or fence, but in a fixed location. (This does not include portable or trailer type signs).

(1) Freestanding Signs are permitted as follows in commercial districts:

(a) In the B1 and B2 Districts not to exceed 20 square feet.

(b) In the C1 District not to exceed 85 square feet.

(c) In the LO District not to exceed 12 square feet.

(2) Free-standing signs over six feet in height may have no more than two sides; free-standing signs less than six feet in height may have three or four sides.
~~and~~

(3) A lot with frontage of 300 feet or more may have two free-standing signs, not less than 175 feet apart.

(4) Multi-tenant Free-standing Signs, defined as a group of signs clustered together in a single structure or composition unit for the purpose of serving several occupants of the same building or building complex, shall have a maximum sign area of 16 sq. ft. for the sign bearing the name of the building or office park, and two square feet for each business or office located there. The display board shall be of an integrated and uniform design.

D. Freestanding Signs (in Residential Districts):- A self-supporting sign not attached to any building, wall or fence, but in a fixed location. Examples of freestanding signs in residential districts include signs indicating a home business, a farm name, a farm stand, or sign indicating historic significance.

(1) Freestanding signs are permitted by Special Exception in the R1 and R3 Districts.

(2) Freestanding signs in the R1 and R3 Districts shall not exceed 6 square feet.

(3) Freestanding signs are limited to one per lot in the R1 and R3 Districts.

~~H. Individual letters or symbols: Individual letters or symbols may be attached to an awning, marquee, building surface, or wall.~~

~~(1) Letters or symbols shall not project more than 12 inches from the building surface;~~

~~(2) Such letter and symbols shall not obscure the architectural features of the building to which they are attached;~~

~~(3) Such letters and symbols shall have an aggregate area not exceeding 1.5 square feet for each foot of building face parallel to a street lot line, or 10 percent of the wall area to which they are affixed, whichever is less; when a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately;~~

~~(4) Such letter and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached; and~~

~~(5) See also § 143-62 (Q) Wall signs.~~

~~I. Landmark signs: An older sign of artistic or historic merit, uniqueness or extraordinary significance to the town, the character of which warrants their preservation in original condition, or their restoration.~~

E. Marquee signs: A sign painted on, or attached to a permanent overhanging shelter which projects from the face of a building.

(1) Marquee signs are permitted by Special Exception in the B1, B2, C1, and LO Districts.

Commented [CC10]: This section incorporated into its corresponding marquee, painted wall, or wall sign sections. Does not practically apply to awnings since letters and symbols on awnings are restricted by the awning size and other specific provisions for awning signs.

Commented [CC11]: Entirely content related. Also has no regulations or provisions, just a definition.

~~(1)(2)~~ Such signs may be painted on or attached flat against the surface of, but not extending beyond or attached to the underside of the overhang.

~~(3)~~ Letters or symbols shall not exceed 12 inches in height; and shall not project more than 12 inches from the building surface.

~~(4)~~ Such letter and symbols shall not obscure the architectural features of the building to which they are attached.

~~(5)~~ Such sign or such letters and symbols shall have an aggregate area not exceeding 1.5 square feet for each foot of building face parallel to a street lot line, or 10 percent of the wall area to which they are affixed, whichever is less; when a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately.

~~(2)(6)~~ Such letter and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached. ~~and~~

~~(3)~~ A minimum clearance of 10 feet above the sidewalk level must be allowed for pedestrian clearance.

~~(4)(7)~~

~~K. Multiple signs: A group of signs clustered together in a single structure or composition unit; multiple signs are used to advertise several occupants of the same building or building complex.~~

Commented [CC12]: Renamed “Multi-tenant Sign” and relocated into the Freestanding Signs in Commercial Districts section.

~~(1) The display board shall be of an integrated and uniform design;~~

~~(2) The maximum sign area permitted is 16 sq. ft. for the sign bearing the name of the building or office park, and two square feet for the name of each business or office located there; and~~

~~(3) Complexes with over 300 feet of frontage will be allowed two free standing signs.~~

F. Off-premise signs:

Commented [CC13]: This is entirely content related.

~~(1)~~ Off-premise signs are permitted in the C1 District and shall not exceed 12 square feet.

~~(1)~~ Informational and directional signs containing no advertising are permitted to:

~~(a)~~ Direct traffic flow;

~~(b)~~ Indicate parking spaces;

~~(c)~~ Identify points of interest;

~~(d) Locate businesses; or~~

~~(e) Provide other essential information to guide vehicular or pedestrian traffic flow.~~

~~(2) Off-premise signs shall be uniform in color, having a dark background with light colors, or a light background with dark colors, and signs indicating for rent/sale/lease shall not be permitted as off-premise signs; and~~

~~(3) Off-premise directory board containing small identification signs conforming to the above requirements may be permitted in special situations where visibility is a significant problem and where they can be harmoniously integrated with the environment.~~

G. G. Painted wall signs: A permanent symbol or message painted directly onto a building surface.

(1) Painted wall signs are permitted by A Special Exception in the B1, B2, C1, and LO Districts.

(2) Painted wall signs is required for all new signs of this type and must comply with the dimensional requirements of a wall sign. (Section 143-63.1) landmark signs are exceptions to these requirements and may be preserved and maintained even if they no longer pertain to the present use of the premise.

N. Political signs: A sign designed to influence the actions of voters for the passage or defeat of a measure, or for the election of a candidate to a public office at a national, state or other local election.

Commented [CC14]: Entirely content related.

~~(1) — Such signs are permitted if they are stationary, unlighted, and temporary;~~

~~(2) — Such signs shall be displayed per RSA 664:17 which reads as follows: No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. The earliest date on which political advertising may be placed or affixed shall be the last Friday in July prior to a state primary. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is the winner in the primary. No person shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to any private property except the owner of the property or a law enforcement officer removing improper advertising; provided, however, that, before a law enforcement officer removes any advertisement, he shall notify the candidate that it is improper, and allow the candidate 24 hours to remove the advertisement himself. Sizes shall be consistent with the Dimensional Table of Signs in § 143-62. **[Amended 3-08-2005 Town Meeting by Amendment No. 7]** Editor's Note: This amendment also repealed former Subsection N(3), which provided for size limitations on political signs.~~

~~(3) (Reserved)~~

~~(4) A maximum of two such signs per lot is allowed.~~

H. Projecting signs: A wall-mounted sign perpendicular to the building surface.

~~(1) If Flat Projecting Signs, are permitted in the B1, B2, C1, and LO Districts and each face shall not exceed 10 square feet.~~

~~(2) 3D Projecting Signs are permitted by Special Exception in the B1, B2, C1, and LO Districts and shall not exceed 9 square feet.~~

(3) The total area of a ~~three-dimensional~~ three-dimensional sign shall be determined by enclosing the largest cross-section of the sign in an easily recognizable geometric shape and computing its area which shall not exceed nine square feet.

(4) Such sign shall be hung at right angles to the building and shall not project closer than two feet to the curb line.

(5) The supporting framework shall be in proportion to the size of the sign.

(6) Signs which overhang a public way (including) sidewalks shall be covered by a public liability insurance policy which names the town as the insured party.

(7) The top of the sign may be suspended in line with one of the following, whichever is the most successful application of scale, linear continuity, and visibility as determined by the Code Enforcement Officer: ~~and~~

~~(1)(a)~~ (a) Between the bottom sills of the second story windows and the top of the doors and windows of the ground floor; or

(b) The lowest point of the roof of a ~~one-story~~ one-story building.

~~(1)(7)~~ (7) Projecting signs shall have a minimum clearance of 10 feet above grade when located adjacent to or projecting over a pedestrian way. If projecting over an alley or driveway, the clearance must be at least 15 feet.

~~P. Public service signs: A sign located for the purpose of providing directions towards or indication of use not readily visible from the street. (i.e. restrooms, telephone, etc.)~~

~~(1) Such signs necessary for public safety and convenience shall not exceed two square feet;~~

~~(2) Such signs shall bear no advertising; and~~

~~(3) Such signs are not included in computing the total number of signs allowed.~~

Commented [CC15]: Entirely content related. New provision about MUTCD signs included under General Requirements.

I. Wall signs: A sign which is attached parallel to the exterior surface of a building or structure.

(2) Wall signs are permitted in the B1, B2, C1, and LO Districts.

G.(3) Such sign shall not obscure architectural features such as, but not limited to, arches, sills, moldings, cornices and transoms, of the building to which said sign is affixed.

H.(4) Such sign shall not extend above the lowest point of the roof, nor beyond the ends of the wall to which it is attached.

I.(5) Such signs shall have an aggregate area not exceeding 1.5 square feet for each linear foot of building face parallel to a street lot line, or 10% of the wall area to which it is attached, whichever is less.

J.(6) Where two or more wall signs are affixed to one wall, the gross display area shall be the sum total area of all signs.

K.(7) Wall signs shall not extend higher than the eave line or top part of a parapet wall of the principal building.

L.(8) No part of a wall sign, including the display surface shall extend more than 10 inches from the building surface. ~~and~~

(9) The size of signs attached to buildings may increase in area (over allowable size) by 25% for every 100 feet of building setback; this shall apply to buildings set back more than 100 feet from the road right-of-way and the increase may be pro-rated according to the actual setback distance. ~~and~~

(10) Individual letters or symbols may be attached to a building surface or wall provided:

(a) Letters or symbols shall not project more than 12 inches from the building surface;

(b) Such letter and symbols shall not obscure the architectural features of the building to which they are attached;

(c) Such letters and symbols shall have an aggregate area not exceeding 1.5 square feet for each foot of building face parallel to a street lot line, or 10 percent of the wall area to which they are affixed, whichever is less; when a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately; and

Commented [CC16]: Correction of an error in wording. The wall sign size should be proportional to the wall it is placed on, not to the length of the lot line of the parcel. This correction would make it consistent with the "individual letters" section of the ordinance, which further demonstrates that this was an error.

~~M.(d)~~ Such letters and symbols shall not extend above the lowest part of the roof, nor beyond the ends of the wall to which they are attached.

J. Window signs: Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window.

~~Any sign which is painted or mounted onto a window pane, or which is hung directly inside the window, (which do not have the purpose or effect of identifying any premise from the sidewalk or street.) Such signs shall not be counted towards the number of signs permitted on a lot, provided they:~~

~~(1) Cover no more than 50% of the window area in which they are displayed; and~~

~~Are used as public service signs, temporary announcements of activities or signs required by law.~~ Window signs are permitted in all zoning districts. ~~and~~

~~(1)~~

(2) A window sign shall not be counted towards the number of signs permitted on a lot, provided it covers no more than 50% of the window area in which it is displayed.

K. Flags: ~~Flags of a patriotic nature and "OPEN" flags~~ are permitted provided ~~ed~~ing that ~~:~~

~~P~~patriotic flags are flown, and cared for, in a manner ~~as stipulated by~~consistent with federal and state law. ~~and~~

~~(a)~~

~~No more than one "OPEN" flag shall be displayed at any one time.~~

Commented [CC17]: Content related.

L. Banners: Banners not exceeding 32 square feet in area shall not be counted towards the number of signs permitted on a lot, provided that:

(1) No banner shall be allowed to be displayed which is determined by the Code Enforcement Officer ~~as~~ to be in a state of disrepair. ~~:~~

(2) Only one banner shall be placed on a lot at any one time; and

(3) The banner shall be temporary in nature, ~~and shall not be utilized to identify the premise from the street or sidewalk.~~

Commented [CC18]: Content related.

M. Portable trailer signs: ~~Portable trailer signs not exceeding 32 square feet in area shall be allowed providing that:~~

(1) Portable trailer signs are permitted in all zoning districts. :

(2) Portable trailer signs shall not exceed 32 square feet in area.

—No portable trailer sign shall be placed on any lot without a sign permit, and
~~(1)(3) . A new permit shall be required and a new fee charged for each different~~
~~sign and for each 15-day period. e~~Each sign permit shall specify the date of
placement and the date of removal.

Commented [CC19]: Clarification to streamline permit process.

(2)(4) Only one sign shall be placed on a lot at any one time.

~~(3)(5) No lot shall have a sign placed upon it for more than 45 days per calendar~~
~~year. and~~

~~(4)(6) Said signs shall be installed as required by the provisions of § 143-64 (B)~~
~~(4) of this Chapter.~~

N. Portable signs: ~~Portable signs not exceeding 12 square feet in area shall be allowed~~
~~providing that:~~

(1) Portable signs are permitted in all zoning districts.

(2) Portable signs shall not exceed 12 square feet in area.

—No portable sign shall be placed on any lot without a sign permit, and
~~D.(3) . A new permit shall be required and a new fee charged for each different~~
~~sign and for each 15-day period. e~~Each sign permit shall specify the date of
placement and the date of removal.

Commented [CC20]: Clarification to streamline permit process.

~~E.(4) Only one portable sign shall be placed on a lot at any one time.~~

~~F.(5) No lot shall have portable signs placed upon it for more than 45 days per~~
~~calendar year. and~~

~~G. Said signs shall be installed as required by the provisions of § 143-64 (B) (4) of~~
~~this Chapter.~~

~~(6)~~

~~W. Adult entertainment use: Signs erected on or off site for the purpose of identifying the~~
~~location of, or advertising an adult entertainment uses are prohibited from depicting or~~
~~otherwise describing specified anatomical areas or specified sexual activities. [Added~~
~~3-14-2000 Town Meeting by Amendment No. 3]~~

Commented [CC21]: Entirely content related

O. Electronic ~~c~~Changing ~~s~~Signs ~~i~~includes, but ~~is are~~ not limited to, electronic message
center~~s~~ (EMC), electronic message sign~~s~~ (EMS), and changeable copy board (CCB)
signs that display illuminated messages that can change frequently, ~~can~~ flash, or
display and/or convey messages in text, graphics, pictures, symbols, multiple colors,
rhythms, animation, and/or patterns. ~~The~~~~is~~ sign's message may be changed by the
electronic switching of lamps, illuminated tubes, bulbs, and/or through the apparent

movement of light. Electronic changing—These signs are capable of storing and/or displaying single or multiple messages in various formats at varying intervals.

~~In addition to being permitted in the Commercial/Light Industrial (C1) District (see § 143-62, Dimensional Table of Signs), electronic changing signs are permitted on those lots directly abutting Pembroke Street from properties south of the Pembroke Street/Main Street intersection to the Allenstown town line.~~

Commented [CC22]: Moved down to conform with new format of Zoning District as first provision.

Electronic changing signs may be freestanding or building mounted, one or two-sided, may be a component of a larger sign or billboard, and shall conform to the following minimum requirements along with all other requirements for signage within this ordinance:

(1) Electronic Changing Signs are permitted only in the C1 District and on those lots directly abutting Pembroke Street from properties south of the Pembroke Street/Main Street intersection to the Allenstown town line.

(a)(2) No more than one electronic changing sign shall be allowed per lot.

(b)(3) Electronic changing signs shall be restricted to a maximum of four (4) lines of text or message display, and text shall be restricted to a maximum of ten (10) inches in height.

(c)(4) Electronic changing signs shall be required to have a minimum of one-hundred and fifty (150) feet between other electronic changing signs located on the same side of a street or highway.

(d)(5) Electronic changing signs shall be allowed only on lots with a minimum street frontage in accordance with the § 143-21, Table of Dimensional and Density Requirements.

(e)(6) Electronic changing signs shall be located a minimum of two-hundred (200) feet from any off-site residential dwelling unit.

(f)(7) Text and message displays of an electronic changing sign, including the background, shall consist of only two colors at any one time.

(g)(8) Text and message displays of an electronic changing sign may change once every twenty-four (24) hours. Electronic changing signs displaying the time and temperature are exempt from this restriction.

(3) All illumination elements on the face of electronic changing signs shall remain at a fixed level of illumination for a period of not less than one (1) hour.

(9)

(h)(10) Electronic changing signs shall be equipped with automatic dimming controls so the brightness level will be highest during the day and lowest at night.

Manufacturer specifications shall be submitted at the time of sign permit specifying maximum and minimum sign brightness. The maximum brightness shall not exceed 8,000 NITS with a maximum nighttime reading not to exceed 1,600 NITS; ~~and~~

~~(11)~~ Under the provisions of this subsection, the applicant for the sign permit for an electronic changing sign shall provide, with the application, an affidavit, sworn or attested by the landowner or applicant, and sign installer, attesting to the fact that:

(a) The sign to be installed meets all of the criteria set forth in this subsection;

(b) ~~That~~ the sign shall operate in a manner consistent with the criteria set forth in this subsection; and

(c) The landowner and applicant agree to be held liable, separately or collectively, if these provisions are not met, for any fines or cost incurred by the Town of Pembroke to enforce these provisions arising from such violations. This provision shall not be construed to supersede any other responsibility or remedy for such violations set forth in this chapter. **[Added 3-17-2012 Town Meeting by Amendment No. 3]**

~~Y. Temporary governmental agency signs which carry public service announcements and notices may be permitted to exceed the dimensional requirements of this article and shall be permitted by special exception for a specified, limited amount of time.~~

Commented [CC23]: CNHRPC Audit recommends removing.

§ 143-64 Standards for the Illumination of Signs.

A. ~~(8)~~ Illuminated signs shall not be permitted to shine onto residential properties and or travelled ways.

B. ~~(9)~~ Illumination of signs, whether internal or external, shall not create conditions that are dangerous to the comfort, peace, enjoyment, health, or safety of the community or lend to its disturbance or annoyance. **[Added 3-17-2012 Town Meeting by Amendment No. 4]**

Commented [CC24]: Relocated from end of section to top of section.

C. A. External illumination:

(1) Externally illuminated signs are permitted in the B1, B2, C1, and LO Districts.

(2) Externally illuminated signs are permitted by Special Exception in the R1 and R3 Districts.

(3) Signs shall be illuminated only with steady, shielded light sources directed solely onto the sign without causing glare.

D. B. Internal illumination:

(1) Internally illuminated signs are permitted in the B1, B2, C1, and LO Districts.

(2) Internally illuminated signs are prohibited in the R1 and R3 Districts.

~~(1)-(3)~~ Internal illumination is generally discouraged, but may be appropriate in certain circumstances subject to the following and must fit into one of the following categories:

~~(1)~~(a) Individual back-lit letters which are silhouetted against softly illuminated walls;

~~(2)~~(b) Individual letters with translucent faces, containing soft lighting elements inside each letter; and/or

~~(3)~~(c) Metal face box signs with cut-out letters and soft glow fluorescent tubes.

~~(42)~~ Neon ~~window~~-signs:

(a) Illuminated neon signs are permitted by Special Exception in the B1, B2, C1, and LO Districts.

(b) Illuminated neon signs are prohibited in the R1 and R3 Districts.

(c) Neon -window signs may be permitted in cases where they are custom designed to be compatible with the building's historic and/or architectural character, and where their color has been selected to harmonize with the building's exterior color. Gas-filled light tubes shall be allowed for indirect illumination and when placed in such a manner that the tubes are not exposed to view from any point along the public roadway or side-walk.

~~(53)~~ No person may erect a sign which flashes, rotates, or has motorized moving parts.

~~(64)~~ All signs must be listed and installed in accordance with the National Electrical Code (NFPA 70).

~~(75)~~ No person may erect a sign which constitutes a hazard to pedestrian or vehicular traffic because of intensity or direction of illumination.

(86) No sign shall be illuminated between the hours of 11 pm and 6 am, unless the premises on which it is located is open for business.;

(97) Strings of lights shall not be permitted, except on a temporary basis as a part of a holiday celebration.; and

~~(8) Illuminated signs shall not be permitted to shine onto residential properties and travelled ways.~~

~~(9) Illumination of signs, whether internal or external, shall not create conditions that are dangerous to the comfort, peace, enjoyment, health, or safety of the community or lend to its disturbance or annoyance. [Added 3-17-2012 Town Meeting by Amendment No. 4]~~

Commented [CC25]: Relocated, not deleted.

§ 143-65 Maintenance.

A. A. A sign shall be maintained in a secure and safe condition.

—; if the Code Enforcement Officer is of the opinion that a sign is not secure, safe, or in a good state of repair, written notice of this fact shall be given to the person responsible for the maintenance of the sign.; and

B. B. If the defect in the sign is not corrected within the time permitted by the Code Enforcement Officer, the Code Enforcement Officer may revoke the sign permit until the owner pays the cost of removal, thus placing the sign owner in violation of the Zoning Ordinance and liable for a fine as specified in § 143-128 thereof.

~~§ 143-66 Number of signs~~

~~[Amended 3-08-2011 Town Meeting by Amendment No. 4]~~

Commented [CC26]: Relocated to General Requirements Section.

~~The maximum number of signs permitted by this article shall be as follows:~~

R1 Residential Home Occupation (Minor or Major)	one
R3 Residential Home Occupation (Minor or Major)	one
B1 Business/Residential District	two*
B2 Central Business District	two*
LO Limited Office	two*
C1 Commercial/Industrial	three*
* or one sign per lot and one sign per use whichever is greater.	

Appendix B

§ 143-8 Definitions.

[Amended 3-9-2010 Town Meeting by Amendment No. 1]

For the purpose of this chapter the following words and phrases shall have the meanings or limitations of meanings herein defined. Terms which may be interchanged with the defined term are noted at the end of the definition.

~~100-YEAR FLOOD~~ — See “Base Flood”

ABANDON - The visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a building or premises; or the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings; or the replacement of the nonconforming use or building by a conforming use or building.

ABUTTER - Shall be as defined in RSA 672:3, as amended.

ACCESS — A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

ACCESS MANAGEMENT — The process of providing and managing access to land development while preserving regional flow of traffic in terms of safety, capacity, and speed.

ACCESSORY DWELLING UNIT (ADU) - A residential living unit no larger than 750 square feet that is within or attached to a single-family dwelling, and that provides independent living facilities for one or more persons, includes provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies. Refer to §143-18.1.

ADULT BOOKSTORE — An establishment having 15% or more of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

ADULT CABARET— A nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are

distinguished or characterized by an emphasis on specified sexual conduct or specified anatomical areas.

ADULT MODEL STUDIO – A place where, for any form of consideration or gratuity, figure models who display specified anatomical areas or specified sexual activities are provided to be observed, sketched, drawn, painted, sculptured, photographed, filmed, videotaped, or similarly depicted in persons paying such consideration or gratuity. Art studios for the instruction of students through a recognized program or curriculum in the study of the arts are not included under this definition.

ADULT MOTEL — A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

ADULT MOTION PICTURE ARCADE — Any place to which the public is permitted or invited wherein coin 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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

ADULT MOTION PICTURE THEATER — An open or enclosed building customarily used for presenting motion pictures or other visual material distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or specified anatomical areas.

AGENT – An individual or group given the authority by a property owner to act on his/her behalf in presenting a proposal to the Planning Board.

AGRICULTURE - See NH RSA 21:34a, II.

AGRICULTURAL RETAIL OUTLETS — Shall be defined as:

- A. **CUT OR PICK-YOUR-OWN OUTLETS** — A site on which agricultural, horticultural, or silvicultural products are made available, at a fee, for harvest by the public.
- B. **FARM STAND (Roadside Stand)** — A structure either temporary or permanent, or a vehicle, from which seasonal agricultural, horticultural, or silvicultural products and produce are sold.
[Amended 3-11-2014 Town Meeting by Amendment No. 9]
- C. **FARMERS MARKET** — See NH RSA 21:34-a, V.
- D. **TEMPORARY AGRICULTURAL RETAIL OUTLET-**

[Removed 3-11-2014 Town Meeting by Amendment No.9]

ALTERATION - Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

ANIMAL FEEDLOT - An agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock.

ANIMATED OR MOVING SIGN – Any sign that has moving or rotating components, flashing lights, or special materials to illustrate action or create a special effect or scene.

ANTENNA - Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

ANTENNA ARRAY – Any antenna installation where more than one antenna is to be installed on the same supporting structure.

APPELLANT - Any person or persons who appeal a decision of the Zoning Board of Adjustment.

APPLICANT – Any person, agent, firm, association, partnership or corporation that makes application to the Planning Board pursuant to the rules of these regulations.

APPLICATION – A written submission of information as required.

AQUIFER - Shall mean a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or private water supply.

AREA OF SHALLOW FLOODING – Means a designated AO, AH, or VO zone on the Flood Insurance Rate Map (FIRM) with a 1% or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

AREA OF SPECIAL FLOOD HAZARD - Is the land in the floodplain within the Town of Pembroke subject to a 1% or greater possibility of flooding in any given year. The area is designated as Zone(s) A and AE on the Flood Insurance Rate Map.

ARTERIAL – A street intended to move through traffic to and from major areas of a town or city or to other towns or cities.

AUTHORIZED AGENT – The Building Inspector/Code Enforcement Officer for the Town of Pembroke.

AUTOMOBILE SERVICE STATION - Any building, land area, or other premises, or portion thereof, used for any of the following; the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles or trucks; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories. (Also automobile repair station, garage, filling station)

BACK LOT - A lot laid out with less than the required frontage which cannot be built upon.

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

BASE FLOOD ELEVATION (BFE) – The elevation of surface water resulting from the “base flood.”

BASEMENT - A space having one-half (1/2) or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 6.5 feet. For the Floodplain Development District, a basement is defined as any area of a building having its floor subgrade on all sides.

BED & BREAKFAST - A residence in which overnight accommodations and a morning meal are provided to transients for compensation.

BERM – A graded, landscaped mound of earth, generally three to eight feet in height as required by this article, used to screen, shield, and buffer undesirable views and to separate incompatible land uses.

BLOCK – A tract of land bounded by streets or by a combination of streets, public lands, railroad rights-of-way, shorelines of waterways or boundary lines of municipalities.

BOARD – A Board of the Town of Pembroke, New Hampshire.

~~**BREAKAWAY WALL** – Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation.~~

BUFFER - Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances. (Also screening)

BUILDABLE AREA - That area of a lot excluding all soils identified as poorly and very poorly drained, all wetlands, wetland buffers, floodplains, submerged areas, slopes 25% or greater, land set aside for open space or conservation purposes, and dedicated easements or rights-of-way. **[Added 3-12-2013 Town Meeting Amendment No. 2] [Amended 3-10-15 Town Meeting]**

BUILDING - Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or material of any kind. For the Floodplain Development District, see "Structure."

BUILDING AREA - The aggregate of the maximum horizontal cross section area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, unenclosed porches, bay windows, balconies and terraces, expressed as a percentage of total lot area.

BUILDING, ACCESSORY - A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building.

BUILDING, ATTACHED - A building having any portion of one or more walls in common with adjoining buildings.

BUILDING, DETACHED - A building having open space on all sides.

BUILDING, PRINCIPAL - A building in which is conducted the principal use of the lot on which it is located.

CAMPGROUND - A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

CANOPY EAVELINE OR EAVELINE SIGN – The bottom of the roof eave or the canopy eave. An eave as defined herein does not include the parapet of a flat roof building.

CAPITAL IMPROVEMENTS PROGRAM – A timetable or schedule of all future capital improvements to be carried out during a specific period and listed in order of priority, together with cost estimates and the anticipated means and sources of financing each project.

CERTIFICATE OF APPROVAL – Written verification from the town giving the applicant permission to proceed with the construction of their development.

CLASS VI ROADS - See RSA 229:5, VII.

CODE ENFORCEMENT OFFICER - The individual designated by the local governing body to administer and enforce the Zoning Ordinance, Building Codes and other building related codes, unless otherwise specified in the code, as adopted by the Town.

COLLECTOR ROAD – A street intended to move traffic from local roads to arterials.

CO-LOCATION - The use of an existing tower or an existing telecommunications facility, for multiple purposes or users.

COMMERCIAL ANIMAL FEEDLOT - An animal feedlot where animals are raised for the consumption of persons other than those living on the premises.

COMMERCIAL KENNEL – The establishment or domicile of any person, business, corporation, or other entity that sells or transfers 10 or more litters or 50 or more puppies in any 12-month period in accordance with RSA 466:4.III and 437:1, that has or promotes a boarding capacity of five (5) or more dogs at any one time, or that breeds more than five (5) litters in any 12-month period. In addition, this definition includes veterinary hospitals.

COMMON AREA - Any parcel of land or area set aside and designed for the benefit and enjoyment of the residents of an Open Space Subdivision, Manufactured Housing Park, and Condominium Development and which may contain community accessory structures and improvements necessary and appropriate for educational, recreational, cultural, social or other non-commercial uses, plus any utility services utilized by the owners of the common areas.

COMMON OPEN SPACE - Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents or their guests of the development and may include such complementary structures and improvements as are necessary or appropriate.

COMMUNITY FACILITIES - Premises owned and operated by a governmental or chartered nonprofit organization, but not including fraternal, sports, or similar membership organization.

CONSERVATION LAND - Land given to a public body dedicated to conservation of forests, park land, etc., or to a private conservation trust, with the intent of preserving it in its original ecological condition, safeguarding water supplies, or diminishing flood danger.

CONSTRUCTION PLAN - The maps or drawing accompanying a subdivision plat and showing specific location and design of proposed improvements to be installed

in accordance with the requirements of the Planning Board as a condition of the approval of the plat.

CONTIGUOUS BUILDABLE AREA – A contiguous area on a single lot which consists of buildable area, unfragmented by non-buildable area.

[Amended 3-12-2013 Town Meeting Amendment No.3] Refer to Table 143-21 for additional information

CONTIGUOUS LOT FRONTAGE - The side of a lot abutting on a single street and unbroken by any frontage of another lot. Building lots shall meet the contiguous frontage requirement as listed in § **143-21**, Table of Dimensional and Density Regulations. (Also, front lot line.)

CONVENTIONAL LOT SIZE AND FRONTAGE, ETC. - Refers to the current conventional requirements as listed in § **143-21** of this chapter, following regular lot-by-lot subdivision procedures.

CORNER CLEARANCE – The distance from the intersection of a public or private roadway to the nearest access connection, measured from the closest edge of pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

COURT - An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

CROSS ACCESS – A service drive providing vehicular access between two or more contiguous sites so the drive need not enter the public street system to access other sites.

CUL-DE-SAC – A local street having one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

DEDICATED EASEMENT - An easement that precludes an owner of land from undertaking activity otherwise permitted, commonly found in utility, slope or drainage easements. All existing and proposed easements shall be deducted from the total lot area in calculating minimum lot size under § **143-21**, Table of Dimensional and Density Regulations, and no structure shall be constructed in any easement.

DEVELOPMENT - The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of a land. (Also project) For ~~floodplain management~~Floodplain Development District purposes this means any man-made change to improved 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.

DISTRICT - A Zoning District as established under Article III of this chapter. (Also zone, zoning district)

DRIVEWAY - A private roadway providing access to a street or highway.

DRIVEWAY, COMMON - A private roadway providing access to a street or highway and shared by two or more uses or lots. (Also shared driveway)

DWELLING - A structure or portion thereof that is used exclusively for human habitation.

DWELLING UNIT - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of one or more individuals. Cooking facilities are defined as an oven/stove.

[Amended 3-8-2011 Town Meeting by Amendment No. 1]

DWELLING, MULTIFAMILY - A building containing three or more dwelling units.

DWELLING, SINGLE-FAMILY DETACHED - A building containing one dwelling unit and that is not attached to any other dwelling by any means.

DWELLING, TWO-FAMILY - A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

EASEMENT – The authorization by a property owner for the use by another, and for a specific purpose, of any designated part of the property.

EASEMENT DEED – A legally binding document that provides the grantee with specific entitlements related to the use and enjoyment of the grantor's property.

ENCLOSURE - A fence or other structure used to confine animals.

ENFORCEMENT STAFF – The staff of the town given the authority to enforce the provisions of these regulations or the conditions of a site plan approval.

ESSENTIAL SERVICES - Services provided by public utility or governmental agencies through erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission and distribution systems; and collection, communication, supply, or disposal systems.

Facilities necessary for the provision of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are buildings necessary for the furnishing of adequate service by such public utility or governmental agencies for the public health, safety or general welfare.

EXCAVATION PIT AGREEMENT – An agreement between the excavation site owner and the contractor describing the terms and procedures for material excavation.

FAMILY - A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

FARM - See NH RSA 21:34-a, I.

FEMA - Means the Federal Emergency Management Agency.

FENCE - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

FINAL SUBDIVISION PLAT – The final map or drawing on which the subdivider's plan or subdivision is presented to the Planning Board for approval.

FINANCIAL GUARANTEE – A form of security acceptable in an amount to the Planning Board and in a form acceptable to the Board of Selectmen.

~~**FLOOD BOUNDARY AND FLOODWAY MAP (FLOODWAY MAP)** – Is an official map of the Town of Pembroke, on which FEMA has delineated the "Regulatory Floodway." This map should not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.~~

~~**FLOOD ELEVATION STUDY** – Means an examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.~~

FLOOD INSURANCE RATE MAP (FIRM) - Means an official map incorporated with this chapter, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Pembroke.

FLOOD INSURANCE STUDY — See ~~"Flood Elevation Study."~~ Means an examination, evaluation, and determination of flood hazards and if appropriate,

corresponding water surface elevations, or an examination and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

FLOOD OR FLOODING - Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD OPENING – An opening in a foundation or enclosure wall that allows automatic entry and exit of flood waters. See FEMA “Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures.”

~~**FLOOD PLAIN AREAS** – The areas of special flood hazard subject to a 1% or greater chance of flooding in any given year. These areas are designated as Zones A6-10 on the Flood Insurance Rate Map for the Town of Pembroke prepared by the U.S. Department of Housing & Urban Development, Effective April 2, 1979 or as later amended.~~

FLOOD PLAIN 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 nonstructural 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."

FLOOR AREA RATIO - The gross floor area of all buildings or structures on a lot divided by the total lot area.

FLOOR AREA, GROSS - The sum of the area of the several floors of a building, measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this chapter, or any such floor space intended and designed for accessory heating and ventilating equipment.

FRONTAGE - See CONTIGUOUS LOT FRONTAGE. *Editor's Note: The former definition of "frontage," was repealed 3-9-2004 by Amendment No. 1; see now the definition of "contiguous lot frontage."*

FRONTAGE ROAD – A public or private drive that generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street. Also known as service roads.

~~**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.~~

GARDEN CENTER – A place of business where retail and wholesale products and produce are sold to the consumer. Garden centers, which may include a nursery and/or greenhouses, import more than 35% of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils. [Added 3-10-2020 Town Meeting Amendment No. 6]

GRADE – The slope of a lot, road, street or other public way specified in percentage (%) terms.

GROUNDWATER - The supply of freshwater under the surface in an aquifer or geologic formation that forms the natural reservoir for potable water.

GUY WIRES - A cable used to secure and steady a tower.

HARDSHIP - A needless and unnecessary restriction of an individual's right to enjoy the lawful use of their property because peculiar characteristics of the land make it impossible to comply with the exact terms of the zoning ordinance.

HAZARDOUS WASTE - See NH RSA 147-A:2, VII. Hazardous waste shall be those substances as defined by the Environmental Protection Agency in its Proposed Regulations under Section 3001, 3002 of the Solid Waste Disposal Act of 1976, and as said Proposed Regulations (including definitions) are more fully set forth in the Federal Register, Monday December 18, 1978, Part IV, and as said revised regulations (including definitions) may from time to time be amended and finally adopted. Hazardous waste shall also be further defined as provided for in "An Act Establishing Waste Management Program," N.H. RSA 147-A:2, effective July 1, 1979, hereinafter referred to as the "Act," and as same may be amended or enlarged upon by the Rules and Regulations of the Bureau of Solid Waste Management, as is more specifically provided for in the Act.

HEIGHT - The distance measured from ground level to the highest point on the tower or other structure, including antennas.

HEIGHT OF SIGN – The greatest vertical distance measured from the finished ground below the middle of the sign to the highest element of the sign.

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:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. 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;
- C. 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
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

HOME BUSINESS—[Deleted 3-12-2013 Town Meeting Amendment No. 1]

HOMEOWNERS ASSOCIATION - A community organization, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

HOSPITAL - A building providing 24-hour in-patient services for the diagnosis, treatment or other care of human ailments including a sanitarium, clinic, rest home, nursing home, and convalescent home.

HOTEL - A facility offering transient lodging accommodation to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

IDENTIFICATION SIGN – A sign that illustrates the name, name and logo, type of business, or identifies a particular establishment.

ILLUMINATED SIGN – A sign lit with either an internal or external light source.

IMPACT FEE - A fee imposed on a development to help finance the cost of municipal improvements or services.

INCENTIVE BONUS – Provisions of this article that provide potentially advantageous land use arrangements to individuals as compensation for voluntarily utilizing their property(s) in a preferred, but not required, manner.

INDUSTRIAL GREENHOUSE – Wholesale business whose principal activity is the growing and selling of plants to retailers and not to the general public. **[Added 3-10-2020 Town Meeting Amendment No. 6]**

JOINT/SHARED ACCESS – A driveway connecting two or more contiguous sites to the public street system.

JUNK – Means any old metals, old bottles; or other solid textile mill waste; unfinished cloth; or other textile mill yards; old paper products; old rubber products; old plastic products; two or more unregistered motor vehicles which are unfit for use on the highways, used parts and materials for motor vehicles; and other second-hand or waste articles, the accumulation of which is detrimental or injurious to the neighborhood.

JUNK YARD - Shall be as defined in RSA 236:112 (I), as amended. (Also salvage yard). Junk yards are not permitted in any zoning district, per the Table of Uses.

LANDSCAPE AREA – An area of a site where lawns, trees, shrubs, ornamental plants and other natural materials, such as rock and wood chip, and decorative features, including sculptures, fountains, and pools have been installed.

LEACHABLE WASTES - Waste materials, including solid wastes, sludge, and agricultural wastes that are capable of releasing contaminants to the surrounding environment.

LEASE - A contractual agreement for the use of lands, structures, buildings, or parts thereof for a fixed time and consideration.

LIVE ADULT ENTERTAINMENT USES – Any establishment where the public is permitted to view models, performers, films, CD ROMs, DVDs, and/or video cassettes, displaying specified sexual activities or specified anatomical areas. Examples include, but are not limited to, strip clubs, sexual encounter centers, adult motels, adult cabarets, adult model studios, adult motion picture theaters, adult arcades, or massage parlors.

LOADING/RECEIVING AREA – A portion of a structure that is reserved for the primary purpose of providing structure access for the arrival and dispersal of goods and products transported by truck or rail.

LOADING SPACE - An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

LOCAL ROAD – A street intended to provide access to other roads from individual properties.

LOT - A tract of land owned and recorded as the property of the same persons or controlled by a single entity. (Also parcel) **[Amended 3-13-2018 Town Meeting refer to Table 143-21 for additional information]**

LOT DEPTH - The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE - The length of the front lot line measured at the street right-of-way line.

LOT IMPROVEMENT – Any building, structure, place, work of art or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

LOT LINE ADJUSTMENT – The movement of a property line or lines which result in no net increase in the number of the lots.

LOT LINE, FRONT - The property line dividing a lot from a street right-of-way.

LOT LINE, REAR - The lot line opposite and most distance from the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

LOT MERGER – The merger of separate contiguous properties into a single tract of land.

LOT OF RECORD - A lot either shown on a plan or described in a deed that is recorded at the Merrimack County Registry of Deeds.
[Amended 3-11-2014 Town Meeting by Amendment No. 10.]

LOT WIDTH - The horizontal distance between the side lot lines as measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

LOT, CORNER - A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street form an interior angle of less than

135 degrees. **[Amended 3-13-2018 Town Meeting] Refer to Table 143-21 for additional information**

LOT, REVERSE FRONTAGE – Any lot that has, or will have, frontage on two or more roadways.

LOT, THROUGH - A lot that fronts on two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot. **[Amended 3-13-2018 Town Meeting] Refer to Table 143-21 for additional information.**

LOWEST FLOOR - Means the lowest floor of 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 chapter.

MAJOR SUBDIVISION – All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots; any subdivision requiring any new street or extension of the municipal utilities or the creation of any public improvements; any subdivision for the purpose of creating condominiums, a planned unit development, multifamily housing or attached single-family housing.

MANUFACTURED HOUSING/HOME - Shall be as defined in RSA 674:31, as amended. Manufactured housing/home shall not include pre-site built housing as defined in this Ordinance. For ~~the Floodplain Development District floodplain management~~ purposes ONLY the term "Manufactured Housing/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 and includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision. **[Amended 3-17-2012 Town Meeting by Amendment No. 1]**

MANUFACTURED HOUSING PARK - A parcel of land which has been planned and improved for the placement of manufactured housing for lease or rent. For the Floodplain Development District, the term means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MANUFACTURED HOUSING SUBDIVISION - A parcel of land which has been planned and improved for the placement of manufactured housing for sale. For the Floodplain Development District, the term means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MASSAGE PARLOR – Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration or fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs where such treatment or manipulation is the principal business of the establishment and is not part of a recognized therapeutic regime.

MASTER PLAN – A comprehensive plan for development of the local community, prepared and adopted by the local Planning Board, pursuant to the state law and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

MATERIAL STORAGE AREA – Any portion of a site routinely used for the outdoor storage of any products, goods, or raw materials.

MAXIMUM HEIGHT – Maximum height of buildings shall be measured from the finished grade to the highest point of the roof and shall not exceed 50' in height. Occupied space shall not exceed 35' in height from the finished grade on each side of the building to the top of the highest window on each side of the building. This definition shall not apply to chimneys, elevator bulkheads, skylights, ventilators, cooling towers, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof, nor to domes, towers, stacks or spires, if not used for human occupancy and which occupy not more than 20% of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, television and radio antennae, and other like structures, which do not occupy more than 20% of the lot area, provided the excepted appurtenances are not located within the flight paths of an airport as defined by FAA regulations.

[Amended 3-12-2013 by Amendment No. 9.]

MEAN SEA LEVEL - Means the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a communities Flood Insurance Rate Map are referenced.

MEMBERSHIP CLUB - A social, sports, or fraternal association or organization which is used exclusively by members and their guests.

MINOR SUBDIVISION – Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road or the extension of municipal streets or utilities or the creation of any public improvements and not adversely affecting the remainder of the parcel of adjoining property. A lot line adjustment as defined herein shall not be considered a minor subdivision.

[Amended 3-10-2015 Town Meeting Amendment No. 5]

MONOPOLE - Any tower consisting of a single pole, constructed without guy wires or ground anchors.

MONUMENT SIGN – A separate structure supported from grade to the bottom of the sign with a base or wall that is larger than the sign. A sign for identification of the business or center as a whole and for listing the major tenants and their building numbers/address numbers.

MOTEL - A facility providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building. Motels may or may not have additional services such as restaurants, meeting rooms, entertainment, and recreational facilities.

MULTIPLE USES - Two or more uses on the same lot, or in the same structure, as outlined under the Table of Use Regulations, § **143-19**.

MULTI-TENANT COMMERCIAL/INDUSTRIAL STRUCTURE – Any commercial, industrial, or office building containing more than one business.

MULTI-USE PATH – A trail or pathway that supports a variety of simultaneous uses in accordance with the municipal ordinances and regulations and/or landowner permission.

NEW CONSTRUCTION – Means, for the purpose of determining insurance rates, structures for which that 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 floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NOISE – Any sound produced by any unnatural or human activity.

NON-BUILDABLE AREA – Area that is not classified as buildable area.
[Amended 3-12-2013 Town Meeting Amendment No. 4]

NONCONFORMING - A use, lot, or structure that was lawful prior to the adoption, revision, or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance.

NUISANCE ODOR – An odor that constitutes a nuisance.

OFFICIAL MAP – The map established by the Planning Board pursuant to law showing the streets, highways, parks and drainage systems and set back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Planning Board as additions thereto resulting from

the approval of site plan plats by the Planning Board and the subsequent filing of such approved plats.

OPEN SPACE - Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring open space.

OPEN SPACE EASEMENT - Land whose development rights have been legally restricted, either by deed or by public purchase of those rights and may be so worded as to permit or restrict public access, to allow or disallow recreational development, and so on, and said easements are tied to the title of the land, regardless of subsequent ownership.

OVERLAY DISTRICT - A zoning district that encompasses one or more underlying districts and that imposes additional requirements above that required by the underlying district(s).

OWNER - The duly authorized agent, attorney, purchaser, devisee, trustee, lessee or any person having vested or equitable interest in the use, structure, or lot in question.

PARKING SPACE - A space for the parking of a motor vehicle within a public or private parking area.

PASSIVE ADULT ENTERTAINMENT USES – Any retail establishment which specializes in the sale or distribution of books, video cassettes, CD-ROMS, DVDs, paraphernalia, devices, or equipment distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas. Examples include, but are not limited to, sexual paraphernalia stores, adult video stores, and adult book stores.

PERFORMANCE ZONING – The specific provisions, standards, or criteria included in this article, which have been created for the purpose of accomplishing the stated intent of the article or any portion thereof.

PHASED SUBDIVISION – Any subdivision undertaken in a set time sequence.

PLANNED DEVELOPMENTS - An area of minimum contiguous size, as specified by this chapter, to be planned, developed, operated, and maintained as a single entity.

POINT OF TANGENCY – The point at which the curb radius ends and the ramp begins. (See appendix B.) Editor's note; Appendix B is included at the end of the chapter.

PORTABLE SIGN - A sign that is not permanent, affixed to a building, structure or ground.

PORTABLE TRAILER SIGN - A portable sign located on a wheeled trailer.

PRE-EXISTING TOWERS AND ANTENNAS - Any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Also, any tower or antenna lawfully constructed in accordance with this ordinance that predates an application currently before the Town.

PRE-SITE BUILT HOUSING- Shall be defined as in RSA 674:31-a, as amended. Pre-site built housing shall not include manufactured housing/home as defined in this Ordinance. **[Added 3-17-2012 Town Meeting by Amendment No. 1]**

PUBLIC IMPROVEMENT – Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.

PUBLIC OPEN LAND - Land purchased by or given to the Town of Pembroke for parks, playgrounds, or an undeveloped open space, generally with the intention of making it accessible for public use.

QUARRYING - An excavation in bedrock open to the surface excavated for the purpose of removing rock, minerals or metallic ores.

RAMP – That portion of a driveway located between the point of tangency and the property line.

RECEIVING AREA – This area is appropriate for more intensive development. The receiving area is land to which the development rights of proposed conservation land are transferred, resulting in a more efficient and intense use of suitable development sites.

RECREATION VEHICLE - Any of the following types of vehicles:

~~(4)~~A. _____ Motor home or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle;

~~(5)~~B. _____ Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;

(6)C. _____ Recreational trailer, which is a vehicular, portable structure built on a single chassis. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping, travel or seasonal use; or

(7)D. _____ Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.

(8)E. _____ For the Floodplain Development District~~floodplain management~~ purposes ONLY the term "Recreation Vehicle" shall mean a vehicle which is:

- a. Built on a single chassis,
- b. Is 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self propelled or permanently towable by a light duty truck;
- e-d. Designed primarily NOT for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

REGISTERED ENGINEER – An engineer properly registered and licensed in the State of New Hampshire.

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.

RESERVE STRIPS – A strip of land reserved for the extension of a street, trail, utility or for some other public purpose.

RESURFACED – The installation of a new layer of asphalt. The definition of "resurfacing" shall not include the addition of seal coating to a driveway.

RIGHT-OF-WAY – A strip of land occupied or intended to be occupied by a street, walkway, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or other special uses. (Also "easement.")

ROAD RIGHT-OF-WAY WIDTH – The distance between property lines measured normally to the center line of the street.

ROAD, DEAD-END – A street or portion of a street with only one (1) vehicular traffic outlet.

ROOF SIGN – A sign that is mounted on a roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eaveline of a building with a gambrel, gable, hip, or mansard roof.

ROOMING HOUSE – A building with guestrooms for rent.

SCREENING - A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SENDING AREA – The area is appropriate for conservation, agricultural or other valuable environmental uses. The sending area is the land from which development rights are transferred, resulting in the permanent preservation of environmentally valuable lands.

SEPTIC SYSTEM – A wastewater disposal or treatment system that receives domestic sewage, other than a holding tank. **Refer to Table 143-21 for additional information.**

SETBACK (YARD DEPTH) MEASUREMENT – The setback (yard depth) of a parcel shall be measured from the lot line. **Refer to Table 143-21 for additional information.**

SEXUAL ENCOUNTER CENTER – A business, agency, or person who, for any form of consideration or gratuity, provides a place where three or more persons, not all members of the same family, may congregate, assemble or associate for the purpose of engaging in specified sexual conduct or exposing specified anatomical areas.

SEXUAL PARAPHERNALIA STORE – Shall mean any retail store specializing in the sale of paraphernalia, devices, or equipment distinguished or characterized by an emphasis on depicting or describing specified sexual conduct or used in connection with specified sexual conduct.

SHADE TREE – A tree in a public place, special easement or right-of-way adjoining a street as provided in these regulations.

SHARED ACCESS DRIVE – A common access point to any Town or State road providing access to two or more properties.

SHED – A utility shed or greenhouse not larger than three hundred twenty (320) square feet of floor area with a height not greater than twelve (12) feet from the floor to the top of the ridge.

SHRUB – A woody plant, smaller than a tree with a height of approximately three feet at time of planting, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

SIGN - Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, colors, illumination, or projected images.

SIGN AREA – The entire face, including the surface and any molding, framing, and projections, but not including the base, wall, or column supports. Individual letters and logos mounted on a building shall be measured by the area enclosed by four straight lines outlining each word and logo.

SINGLE DRIVEWAY – A driveway serving one (1) lot or use.

SITE PLAN – A plan of the area of proposed development. (Also “plat,” “plan” or “development.”)

SLUDGE - Residual materials produced by water and sewage treatment processes and domestic septic tanks.

SOLID WASTE - Any discarded or abandoned material including refuse, putrescible material, septage, or sludge as defined by NH Solid Waste Rules He-P 1901.03, as amended. Solid waste includes solid, liquid, semi-solid, or certain gaseous waste material resulting from residential, industrial, commercial, mining, and agricultural operations and from community activities. Also see NH RSA 149-M:4 for additional definitions.

SPECIAL CONDITIONS - Conditions which must be met in order to obtain a special exception, be constructed, or approved by the Planning Board or Zoning Board of Adjustment.

SPECIAL EXCEPTION - A use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and approved by the Zoning Board of Adjustment. (Also conditional use)

SPECIAL FLOOD HAZARD AREA – ~~Means an area having flood, mudslide, and/or flood related erosion hazards, and shown on the FIRM as zones A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M, or E.~~ (See "Area of Special Flood Hazard")

SPECIAL USE PERMIT - A permit issued by the Planning Board that must be acquired prior to the undertaking of an act or development.

SPECIFIED ANATOMICAL AREAS - For purposes of this Chapter are less than completely and opaquely covered:

- A. Human genitals, pubic region;
- B. Buttock; and
- C. Female breast below a point immediately above the top of the areola; or
- D. Human male genitals, less than completely and opaquely covered, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES - For purposes of this Chapter are:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy; or
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.

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 sheds not occupied as dwelling units or part of the main structure.

STEEP SLOPES - Land areas where the slope exceeds 15%.

STORY - That part of a building comprised between a floor and the floor or roof next above. If a mezzanine floor area exceeds 1/3 of the area of the floor immediately below, it shall be deemed to be a story.

STREET - Means, relates to and includes a Town Class V or better street, avenue, boulevard, road, highway, and freeway.

STRUCTURE - A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or the like. For ~~floodplain management~~ the Floodplain Development District purposes means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBDIVISION – As defined by RSA 672:14, as amended.

SUBDIVISION REGULATIONS – The subdivision regulations of the Town of Pembroke. Editor's note: See Ch. 205, Subdivision of Land.

SUBMERGED AREAS – Areas which are covered or inundated with water.

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 before the "start of construction" of the improvement. ~~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 purposes 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 either:~~ 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".

A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

TELECOMMUNICATIONS FACILITIES - Any structure, antenna, tower, or other device that provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), personal communications services (PCS), broadcast services, commercial

broadband data services, common carrier wireless exchange access services, and any other commercial radio frequency (RF) based services.

TEMPORARY DRIVEWAY – A driveway which is only to be used for a period of six (6) months or less.

TEMPORARY IMPROVEMENT – Improvements built and maintained by a subdivider during construction of the site plan and prior to release of a financial guarantee, if any.

TOWER - A structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers and monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.

TOWN – The Town of Pembroke.

TRACT OF LAND - One or more lots of record combined for the purpose of development.

USABLE LAND – (See definition for Buildable Area)

USE - The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained. Within the Town of Pembroke there are 5 types of uses. These uses are: Residential; Community Facilities; Agricultural; Retail & Service; and Wholesale, Transportation & Industrial.

USE, ACCESSORY - A use customarily incidental and subordinate to the principal use of a structure or lot, or a use, not the principal use, which is located on the same lot as the principal structure.

USE, PRINCIPAL - The main or primary purpose for which a structure or lot is designed, arranged, or intended, or for which it may be used, occupied or maintained under this chapter. Any other use within the main structure or the use of any other structure or land on the same lot incidental or supplementary to the principal use and permitted under this chapter shall be considered an accessory use.

USE, PROHIBITED - A use which is not listed in the Table of Uses.

USE, SUBSTANTIALLY DIFFERENT - A use which by reason of its normal operation would cause readily observable differences in patronage, service, appearance, noise, employment or similar characteristics from the use to which it is being compared.

VARIANCE - Such departure from the terms of this chapter as the Board, upon appeal in specific cases, is empowered to authorize under the terms of Article **XIV**.

VERNAL POOL – A surface water or wetland, including an area intentionally created for purposes of compensatory mitigation, which provides breeding habitat for amphibians and invertebrates that have adapted to the unique environments provided by such pools and which:

~~(5)(a)~~ Is not the result of ongoing anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to

~~a.(1)~~ Gravel pit operations in a pit that has been mined at least every other year; and

~~b.(2)~~ Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and

~~(6)(b)~~ Typically has the following characteristics:

~~a.(1)~~ Cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year;

~~b.(2)~~ Forms in a shallow depression or basin;

~~c.(3)~~ Has no permanently flowing outlet;

~~d.(4)~~ Holds water for at least 2 (two) continuous months following spring ice-out;

~~e.(5)~~ Lacks a viable fish population; and

~~f.(6)~~ Supports one or more primary vernal pool indicators, or 3 (three) or more secondary vernal pool indicators. **[Added 3-10-2020 Town Meeting Amendment No. 8]**

VIOLATION - For ~~the Floodplain Development District floodplain management purposes,~~ means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. ~~A structure or development without the elevation certificate, 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.~~

WAIVER – Permission to depart from the requirements of these regulations.

WATER SURFACE ELEVATION - Means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.

WETLANDS – Shall be defined as in RSA 482-A:2, X, namely “an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated conditions.”

Wetlands include swamps, marshes, bogs and similar areas. **[Amended 3-8-2011 Town Meeting by Amendment No. 1]**

YARD - A portion of a lot upon which a building is not situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein.

YARD, FRONT - A yard extending for the full width of the lot between the front line of the nearest building wall and the front lot line.

YARD, REAR - A yard extending for the full width of the lot between the rear line of the building wall and the rear lot line.

YARD, SIDE - A yard extending for the full length of a building between the nearest building wall and the side lot line.

143-69 Floodplain Development (FD) District.

- A. Purpose: The purpose of this District is to protect the Town of Pembroke and its residents from the hazards of development in the floodplains of rivers.
- B. Intent: The intent of this section is to bring the Town of Pembroke into compliance with the Federal Emergency Management Agency (FEMA) rules and regulations required for municipal participation in the Flood Insurance Program.
- C. Applicability: The following regulations in this section shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Merrimack, NH" dated April 19, 2010 or as amended, which are declared to be a part of this ordinance and are hereby incorporated by reference together with the associated Flood Insurance Rate Maps dated April 19, 2010, or as amended. **(Amended January 4, 2010 Public Hearing by Board of Selectmen)**
- D. Building permits: All proposed developments in any special flood hazard areas shall require a building permit. The Code Enforcement Officer 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:
 - ~~H~~.(1) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - ~~I~~.(2) Be constructed with materials resistant to flood damage;
 - ~~J~~.(3) Be constructed by methods and practices that minimize flood damages; and
 - ~~K~~.(4) 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.
- E. Water & 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 Code Enforcement Officer 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, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.

F. Required information: For all new or substantially improved structures located in Zones A or AE, the applicant shall furnish the following information to the Code Enforcement Officer: **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

(1) The as-built elevation (in relation to ~~mean sea level~~NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement;

(2) If the structure has been flood proofed, the as-built elevation (in relation to ~~mean sea level~~NGVD) to which the structure was flood proofed; and

(3) Any certification of flood proofing.

(3)(4) The Code Enforcement Officer shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

G. Certification: The Code Enforcement Officer shall not grant a building permit until the applicant certifies that all necessary permits have been received from these governmental agencies from which approval is required by federal, state, or local law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U. S. C. 1334. The Code Enforcement Officer shall maintain for public inspection such records, and shall furnish such information upon request.

H. River alterations:

A. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands ~~Bureau~~Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Code Enforcement Officer, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to these adjacent communities as determined by the Code Enforcement Officer, including notice of all scheduled hearings before the Wetlands ~~Bureau~~Board. **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

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

C. 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 analyses performed in accordance with standard engineering practices that the proposed encroachment would not that would result

in any increase in flood levels within the community during the base flood discharge. [Amended 3-11-2008 Town Meeting by Amendment No. 4]

D. Along watercourses that have not had a Regulatory Floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones AE 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 the water surface elevation of the base flood more than one foot at any point within the community. **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

E. The Code Enforcement Officer shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement: "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." **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

I. Flood elevation determination:

~~(1)~~(1) In special flood hazard areas the Code Enforcement Officer shall determine the ~~base 100-year~~ flood elevation in the following order of precedence according to the data available:

~~a.~~(a) In zones AE, refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM. **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

~~b.~~(b) In ~~Zone A, unnumbered A-zones~~ the Code Enforcement Officer shall obtain, review, and reasonably utilize any ~~base 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). Where a base flood elevation is not available or not known for Zone A, the base flood elevation shall be determined to be at least 2 feet above the highest adjacent grade.

~~c.~~(c) Reserved **[Removed 3-11-08 Town Meeting by Amendment No. 4]**

~~(k)~~(2) The Code Enforcement Officer's ~~base 100-year~~ flood elevation determination will be used as criteria for requiring in zones A, and AE that: **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

~~A.(a)~~ All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the ~~base100-year~~ flood elevation; and

~~B.(b)~~ That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the ~~base100-year~~ flood level; or together with attendant utility and sanitary facilities, shall:

[1] Be flood proofed so that below the ~~base100-year~~ flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

[2] Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

[3] Be certified by a registered professional engineer or architect that the design and methods of construction standards of practice for meeting the provisions of this section.

~~C.(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 flotation, 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.(d)~~ Recreational vehicles placed on sites within zones ~~A A1-30, AH,~~ and AE shall be either:

[1] Be on the site for fewer than 120 days;

[2] Be fully licensed and ~~ready for highway use on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions;~~ -or

[3] Meet all standards of ~~the Floodplain Development District section 60.3 (b) (1) of the National Flood Insurance Program Regulations (NFIPR)~~ and the elevations and anchoring requirements for "Manufactured Homes" in ~~the Floodplain Development District paragraph (c) (6) of section 60.3 of the NFIPR.~~

~~E.(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:

[1] The enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;

[2] The area is not a basement; and

[3] 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 **flood** 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.

~~F. Proposed structures to be located on slopes in special flood hazard areas, zones AH and AO shall include adequate drainage paths to guide flood waters around and away from the proposed structures.~~

J. Variances and appeals:

~~(3)~~(1) Any order, requirement, decision or determination of the Code Enforcement Officer made under this section may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.

~~(4)~~(2) If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, the applicant shall have the burden of showing, in addition to the usual variance standards under state law, the following:

~~a.~~(a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;

~~b.~~(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; and

~~c.~~(c) That the variance is the minimum necessary, considering the flood hazard, to afford relief.

~~(5)~~(3) The Zoning Board of Adjustment shall notify the applicant in writing that:

~~(4)~~(a) The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to the maximum amount allowed by FEMA; and

~~(5)~~(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.

~~(6)~~(4) The Town shall:

(4)(a) Maintain a record of all variance actions, including their justification for their issuance; and

~~(5)~~(b) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

Appendix C

ARTICLE IXA- Soucook River Development (SR) District (§ 143-72.1 - § 143-72.22) **[Added 3-12-2002 Town Meeting by Amendment 5]**

§ 143-72.1 Authority.

Authority The Soucook River Development District (SR) is hereby established under the authority of RSA 674:21, Innovative Land Use Controls.

§ 143-72.2 Intent.

It is the intent of the Town of Pembroke to provide an innovative mix of land development opportunities for areas suited for such development while at the same time protecting Pembroke's important natural resources.

§ 143-72.3 Purpose.

The purpose of this district is to:

- A. Implement the commercial/industrial and environment/agriculture goals and objectives as stated in the Town of Pembroke's Master Plan;
- B. Promote more intensive development of land suitable for nonresidential development through the use of innovative land use controls such as performance standards and transfer of development rights;
- C. Optimize financial return on public infrastructure investments and expenditures, including municipal sewer, municipal water and public highways;
- D. Encourage environmentally sound and aesthetically pleasing development compatible with the unique character of the Town of Pembroke;
- E. Protect the residential and rural character of Pembroke Street by encouraging the creation of loop roads and promoting commercial development off of Pembroke Street;
- F. Permanently protect Pembroke's important natural resources such as the Soucook River corridor, adjacent floodplains, wetlands, aquifers, and other important uplands;
- G. Establish new conservation areas that significantly contribute to the Town's existing system of conservation land;
- H. Maintain and improve the level of service of major local, regional, and state roadways;

- I. To encourage the creation of walkable communities; and
- J. To strengthen the local tax base.
- K. To create opportunity for mixed use through Special Use Permit of the Planning Board.

§ 143-72.4 Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACCESS - A way or means of approach to provide vehicular or pedestrian entrance or exit to a property.

ACCESS MANAGEMENT - The process of providing and managing access to land development while preserving regional flow of traffic in terms of safety, capacity, and speed

ANIMATED OR MOVING SIGN - Any sign that has moving or rotating components, flashing lights, or special materials to illustrate action or create a special effect or scene.

BERM - A graded, landscaped mound of earth, generally three to eight feet in height as required by this article, used to screen, shield, and buffer undesirable views and to separate incompatible land uses.

CALIPER - The diameter of a tree trunk, measured 36 inches from the finish grade at the base of the trunk.

CANOPY EAVELINE OR EAVELINE SIGN - The bottom of the roof eave or the canopy eave. An eave as defined herein does not include the parapet of a flat roof building.

CORNER CLEARANCE - The distance from the intersection of a public or private roadway to the nearest access connection, measured from the closest edge of pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way.

CROSS ACCESS - A service drive providing vehicular access between two or more contiguous sites so the drive need not enter the public street system to access other sites.

EASEMENT - A grant of one or more property rights by a property owner to or for use by the public, or another person or entity.

EASEMENT DEED - A legally binding document that provides the grantee with specific entitlements related to the use and enjoyment of the grantor's property.

FRONTAGE ROAD - A public or private drive that generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street. Also known as service roads.

HAZARDOUS WASTE - Hazardous waste shall be those substances as defined by the Environmental Protection Agency in its Proposed Regulations under Section 3001, 3002 of the Solid Waste Disposal Act of 1976, and as said Proposed Regulations (including definitions) are more fully set forth in the Federal Register, Monday, December 18, 1978, Part IV, and as said revised regulations (including definitions) may from time to time be amended and finally adopted. Hazardous waste shall also be further defined as provided for in "An Act Establishing a Hazardous Waste Management Program," N.H. RSA 147-A: 2, effective July 1, 1979, hereinafter referred to as the "Act," and as same may be amended or enlarged upon by the Rules and Regulations of the Bureau of Solid Waste Management, as is more specifically provided for in the Act

HEIGHT OF SIGN - The greatest vertical distance measured from the finished ground below the middle of the sign to the highest element of the sign.

IDENTIFICATION SIGN – A sign that illustrates the name, name and logo, type of business, or identifies a particular establishment.

ILLUMINATED SIGN - A sign lit with either an internal or external artificial light source.

INCENTIVE BONUS - Provisions of this article that provide potentially advantageous land use arrangements to individuals as compensation for voluntarily utilizing their property(s) in a preferred, but not required, manner.

JOINT / SHARED ACCESS - A driveway connecting two or more contiguous sites to the public street system.

LANDSCAPE AREA - An area of a site where lawns, trees, shrubs, ornamental plants and other natural materials, such as rock and wood chip, and decorative features, including sculptures, fountains, and pools have been installed.

LOADING / RECEIVING AREA - A portion of a structure that is reserved for the primary purpose of providing structure access for the arrival and dispersal of goods and products transported by truck or rail.

LOT FRONTAGE - The portion of a lot extending along a street right-of-way line.

LOT, REVERSE FRONTAGE - Any lot that has, or will have, frontage on two or more roadways.

MATERIAL STORAGE AREA - Any portion of a site routinely used for the outdoor storage of any products, goods, or raw materials.

MONUMENT SIGN - A separate structure supported from grade to the bottom of the sign with a base or wall that is larger than the sign. A sign for identification of the business or center as a whole and for listing the major tenants and their building numbers/address numbers.

MULTI-TENANT COMMERCIAL / INDUSTRIAL STRUCTURE - Any commercial, industrial, or office building containing more than one business.

MULTI-USE PATH - A trail or pathway that supports a variety of simultaneous uses in accordance with municipal ordinances and regulations and/or landowner permission.

NOISE - Any sound produced by any unnatural or human activity.

NUISANCE ODOR - An odor that constitutes a nuisance.

OPEN SPACE - A portion of a lot, free of man-made structures, which is dominated by natural materials, including woods and lawn, and is free and open to the sky.

PERFORMANCE ZONING, PERFORMANCE ZONING STANDARDS - The specific provisions, standards, or criteria included in this article, which have been created for the purpose of accomplishing the stated intent of the article or any portion thereof.

RECEIVING AREA - This area is appropriate for more intensive development. The receiving area is land to which the development rights of proposed conservation land are transferred, resulting in a more efficient and intense use of suitable development sites.

ROOF SIGN - A sign that is mounted on a roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eaveline of a building with a gambrel, gable, hip, or mansard roof.

SENDING AREA - This area is appropriate for conservation, agricultural or other valuable environmental uses. The sending area is the land from which development rights are transferred, resulting in the permanent preservation of environmentally valuable lands.

SHARED ACCESS DRIVE - A common access point to any Town or State road providing access to two or more properties.

SHRUB - A woody plant, smaller than a tree with a height of approximately three feet at time of planting, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

SIGN AREA - The entire face, including the surface and any molding, framing, and projections, but not including the base, wall, or column supports. Individual letters and logos mounted on a building shall be measured by the area enclosed by four straight lines outlining each word and logo.

§ 143-72.5 District boundaries.

The boundaries of the SR are shown on a map entitled "Soucook River Development District" as drawn by the Pembroke Department of Planning and Land Use, dated July 10, 2001, and incorporated hereby as an amendment to the Official Zoning Map of the Town of Pembroke.

§ 143-72.6 Permitted uses.

All land uses listed below, or any combination thereof, are permitted within the SR, subject to Planning Board review and approval for suitability. Mixed use is permitted by special use permit in accordance with Section 143-72.23. Prior to any Planning Board approval of a proposed use, an applicant must demonstrate that the proposed use will satisfy the purpose statements of this article, and meet the performance standards as established in the following sections as well as the Town of Pembroke Subdivision and Site Plan Review Regulations.

Editor's Note: See Ch. 203, Site Plan Review, and Ch. 205, Subdivision of Land.

Community Facilities
Public park, conservation area and preserved open spaces, including areas of passive recreation
Town building, fire stations, police stations, public libraries and town equipment garages
Public utilities such as power or gas plants, water filter plant, sewage plant and refuse facility
Private utilities such as power or gas plants, water filter plant, sewage plant and refuse facility
Agricultural

Agricultural retail outlets
Veterinary hospital
Retail and Service
Retail establishment selling principally convenience goods including, but not limited to food, pharmaceutical, and proprietary goods
Retail establishment selling general merchandise, including but not limited to dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares, and hardware and including discount and limited price variety stores.
Eating and drinking places not including drive-in establishments.
Membership club
Professional and business offices
Miscellaneous business repair service excluding automobile service station or small engine repair shop
Motion picture establishment, indoor
Other amusement and recreation service, indoor
Commercial parking lot or commercial parking structure
Planned Commercial Development
Temporary office or storage trailer
Private day care or kindergarten
Hotels and motels
Wholesale, Transportation and Industrial
Construction industry including suppliers
Manufacturing
Wholesale, trade and distribution

Research offices or establishments devoted to research and development activities
Planned Industrial Development
Planned Unit Development

§ 143-72.7 Baseline dimensional requirements.

For any permitted use with water and sewer:

Minimum Lot Size: 2 Acres.
Frontage: 200 feet.
Minimum Lot Depth: 200 feet.
Minimum Front Setback: 40 feet.
Minimum Side Setback: 20 feet.
Minimum Rear Setback: 30 feet.
Maximum Height: 35 feet.
Minimum Open Space: 30% [Amended 3-13-2007 Town Meeting by Amendment No. 7]

§ 143-72.8 Incentive bonuses.

- A. These standards have been created as an incentive for developers who choose to voluntarily develop their properties in a way that is most compatible with the Town of Pembroke's Master Plan, as amended, and the 2001 Town of Pembroke Economic Development Study. Only one bonus may be used per incentive.

(1) Front Setbacks: May be reduced up to 50% where:

- (a) Parking is placed to the rear or side of the structure;
- (b) Shared access drive and parking are established; or
- (c) Sidewalks and/or bicycle paths are proposed along the Town roadway as shown on cross section.

(2) Frontage Requirements: May be reduced up to 50% where:

- (a) Parking is placed to the rear or side of the structure;

(b) Shared access drive and parking are established; or

(c) Sidewalk / bike path is proposed along the Town roadway as shown on cross section.

(3) Open Space Requirements: May be reduced to 10% where: Land of equal or greater size as the required area is donated to the Town of Pembroke or an appropriate organization as outlined in § 143-72.9 of this article.**[Amended 3-13-2007 Town Meeting by Amendment No. 7]**

(4) Building Height Requirements:

(a) For site plans with lot sizes greater than the minimum required acreage, the height of structures may be increased 10 feet per additional acre of lot size, up to a maximum of 100 feet.

B. Conditions of Incentive Bonuses:

(1) Shared Parking / Access.

(a) Site plan applications that are granted permission to develop shared parking or access shall provide the following:

[1] A least one cross easement or right-of-way to each abutting parcel, whether developed or not. Said easement or right-of-way shall be recorded with the deed of each parcel allowing for shared or cross access to and from other properties by the joint use driveways and/or access drives;

[2] Connecting drives shall be constructed with a design speed of 15 mph and sufficient cart way width of at least 22 feet to accommodate two-way travel isles designed to accommodate automobiles, service vehicles, and delivery vehicles;

[3] The applicant will record an agreement with the deed that remaining access rights along the roadway providing frontage to the development will be dedicated to the Town and pre-existing driveways will be closed and eliminated after the construction of the joint-use driveway.

[4] A joint maintenance agreement with the deed defining maintenance responsibilities of property owners sharing common driveway or internal access road shall be recorded;

(b) All easement and maintenance agreements must be satisfactory to the Town Attorney. Cost of legal review of all documentation will be borne by

the Applicant. All costs shall be paid by the applicant prior to signing of the final plat.

§ 143-72.9 Donation of off-site land to reduce minimum lot area.

These standards have been created as an incentive for developers who choose to permanently protect Pembroke's natural resources such as the Soucook River corridor, adjacent floodplains, wetlands and important uplands, and/or establish new conservation areas that are adjacent to and contribute to Pembroke's existing system of conservation land.

A. Standards:

- (1) All nonresidential development in the SR would qualify as a "receiver" while the Soucook River Corridor, as it flows through the SR and its adjacent floodplains and uplands would be considered the "sending area." The sending area also includes "Suggested Areas to Protect from Development" as identified by the Pembroke Conservation Commission in the report entitled "Open Space Trail System Plan for the Town of Pembroke, New Hampshire" dated July 2001. Priority shall be given to land contiguous to existing conservation land and land that hosts valuable natural resources.
- (2) Land within a sending area may count for either the open space or aquifer protection requirement of a receiving site (Wetlands in the sending area must be protected by a buffer of at least 200 feet). The amount of land preserved in a sending area shall equal or exceed the open space/aquifer protection requirement for the development site, but in no case be less than one acre. Development sites shall maintain at least 10% of open space on the development site not including the required landscaping.
- (3) Drainage retention/detention basins, drainage easements and swales shall not be counted in determining open space of the development site.
- (4) The land being offered must meet the following criteria:
 - (a) Must be sufficiently accessible;
 - (b) Must be deeded in fee to the Town or other approved organization or have a permanent conservation easement as recommended by the Conservation Commission and Planning Board and approved by the Board of Selectmen.
 - (c) Must be a minimum size of one acre or larger.

B. Procedures:

- (1) An application for design review shall be submitted to the Planning Board as outlined in the Town of Pembroke Site Plan Review Regulations.

Editor's Note: See Ch. 203, Site Plan Review. A plan shall show a sketch of the proposed development site along with the approximate sending area associated with the development. The Planning Board shall determine if the proposal meets the purposes stated in this article. Upon approval from the Planning Board, a final application for development shall proceed.

- (2) The owner of the sending area parcel shall sign all of the application materials as a co-applicant of the site plan application.
- (3) A certified boundary survey of the sending area shall be submitted with the site plan application.
- (4) A warranty deed, conservation easement or similar permanent covenant shall be recorded on the sending area property. The agency to hold the deed or easement shall be approved by the Planning Board.

§ 143-72.10 Parking lot design, driveways and shared access performance standards.

The objective of the following standards is to preserve and enhance the aesthetic qualities of the Soucook River Development District by requiring landscaping and design standards that are appropriate and proportionate to the intensity of the proposed land use. It is the intent of the Town of Pembroke to encourage developers to work with the Planning Board using these guidelines to create attractive developments that acknowledge the unique character of the land within the district.

- A. Parking Design Submittal Requirements: Parking design and configuration plans shall include the following submittal requirements:
 - (1) Location of access points on both sides of road;
 - (2) Distances to neighboring constructed access points, median openings, traffic signals, intersections, and other transportation features on both sides of the property;
 - (3) Number and direction of driveway lane(s) to be constructed, with striping and signage plans;
 - (4) All planned transportation features (emergency/fire lanes, frontage roads, common access drives, signals, etc.);
 - (5) Trip generation data and appropriate traffic studies;

- (6) Parking and internal circulation plans; and,
- (7) Plat map showing property lines, rights-of-way, and ownership of abutting parcels.

B. Surface Materials:

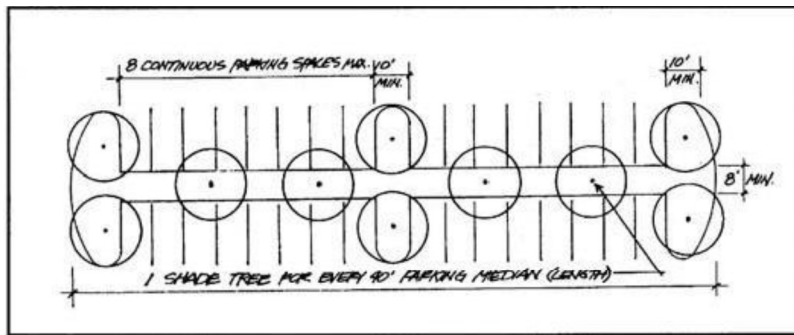
- (1) Non-residential uses in operation for six months or more of the year are required to pave all parking and loading areas. Pavement shall consist of a binder and wear course. In loading areas, additional pavement may be required due to weight of delivery vehicles.
- (2) Seasonal properties open for business for six months or less annually shall be allowed use alternative surface materials such as crushed stone or gravel. Sites without paved parking areas shall be required to construct a paved driveway apron at least 30 feet in length to protect town / state roadways.
- (3) Though not required, applicants are encouraged to use alternative impervious surface materials other than asphalt and concrete. Encouraged materials include brick, stamped concrete, cobblestone, and other similar materials.

C. Parking Lot Landscaping Performance Standards: Well-executed parking lot landscaping can provide many benefits, including mitigation of environmental complications created by large expansions of paved areas. Landscaping can provide for space for continuous pedestrian walkways, and create a separation from vehicular travel ways. Stormwater can be mitigated in landscaped medians, thereby reducing the need for unsightly treatment basins. All parking lots shall employ the following landscaping performance standards:

- (1) General Screening: A dense landscape screening of parking areas from all abutting streets and properties shall be provided. Exceptions shall be made to foster connectivity between adjacent, off-site parking areas.
- (2) Landscape Medians:
 - (a) Landscaped areas shall be designed to accept and retain stormwater infiltration. This can be accomplished by using porous curbing, wheel stops, or other elements to permit free flow of water. The intrusion of vehicles into medians should be prevented.
 - (b) A minimum eight-foot wide planting median should be provided between adjacent rows of parking. See graphic titled "Parking Lot Landscape Median".
 - (c) One shade tree per 40 feet of parking shall be installed in landscape medians. This is in addition to any other landscaping requirements. See graphic titled "Parking Lot Landscape Median".
 - (d) The maximum of eight contiguous parking spaces shall be permitted. A minimum ten-foot wide landscape island between each area of contiguous

- parking spaces shall be incorporated into each parking design. See graphic titled "Parking Lot Landscape Median".
- (e) Each landscape island shall contain at least one shade tree. See graphic titled "Parking Lot Landscape Median".

Figure: Parking Lot Landscape Median



(3) Planting Requirements:

- (a) A minimum of 10% of the interior of parking lot shall be set aside for landscaping areas, exclusive of paved pedestrian areas.
 - (b) The landscaped area shall be calculated as 10% of all paved drives, parking areas, and drive islands.
 - (c) A minimum of two shade trees per 1,600 square feet of paved area (or every five parking spaces) shall be provided. No single species of shade tree shall comprise more than 15% of total plantings.
 - (d) One shrub per 200 square feet of parking paved area shall be provided, (or 1.6 shrubs per every parking space). No single species of shrub shall comprise more than 15% of total plantings.
- (4) Perimeter Landscaping Requirements: Perimeter Landscaping provides the following benefits: visual screening of automobiles, summer shading of paved areas, and wind buffering. The following perimeter landscaping planting requirements shall be provided:
- (a) Two drought or and salt tolerant shade trees per 50 feet of perimeter edge, all sides, at 2-1/3 to three inches caliper at a height of 12 feet at time of planting. No single species of shade tree shall comprise more than 15% of total plantings
 - (b) One shrub per five feet of frontage, 2-1/3 to three feet in height at time of planting. No single species of shrub shall comprise more than 15% of total plantings.
 - (c) Buffer requirements can be combined with perimeter landscaping requirements where areas overlap.

- (d) Parking perimeter shall be defined as that area directly adjacent to parking areas.

§ 143-72.11 Pre-existing access configuration performance standards.

Access connections in pre-existing site plan review which do not conform with the standards employed in these regulations shall be brought into compliance as subsequent site plan approval is necessary due to changes of use or expansions of use. Scenarios in which reconfiguration of access points shall be required include:

- A. When new access connections are requested;
- B. When substantial enlargements or improvements to sites or structures are proposed;
- C. Significant changes in trip generation occurs; and,
- D. As roadway improvements allow.

§ 143-72.12 Driveway design performance standards.

The following performance standards shall guide the design of driveways for non-residential site plans.

- A. Driveway Spacing: The following driveway spacing requirements shall be required unless specifically waived by the Board:

Posted Highway Speed Limit (mph)	Driveway Spacing (feet)
35 or less	150
40	185
45	230
50	275

- B. Site Distance: Site distance is crucial to insure safe ingress and egress to properties fronting on major roadways. For all access points, the following standards shall apply:

Type of Road	Posted Speed Limit or Typical Speed of Traffic (mph)	Minimal Safe Sight Distance (feet)
Minor Roads	30 or lower	200
Through Roads	31 to 40	275
Through Roads	41 to 50	350
Major Roads	51 to 60	

- C. Throat Lengths: To facilitate a safe internal traffic pattern, the following minimum driveway throat lengths are required:

Type of Development	Minimum Throat Length (feet)
Driveways Without Traffic Signals At Intersection	50
Shopping Centers / Retail Structures with 200,000 Gross Leasable Floor Area (GLA)	200
Smaller Developments Under 200,000 Gross Leasable Floor Area (GLA)	85

- D. Approaches: Driveway approaches must be designed and located to provide an exiting vehicle with an unobstructed view. Construction of driveways along acceleration or deceleration lanes and tapers is discouraged due to the potential for vehicle weaving conflicts.
- E. Driveway Widths: Driveway width and flair shall be adequate to serve the volume of traffic and provide for rapid movement of vehicles off the major thoroughfare, but standards shall not be so excessive as to pose safety hazards to pedestrians, bicyclists, or other motorists.
- F. Alignment: Whenever feasible, driveways shall be aligned with those curb cuts directly across the street from the site under review.

- G. Reverse Frontage Lots: For lots having dual frontage on two or more streets, access shall be provided from the street with the lower functional classification. When subdivision is proposed that would abut an arterial or major collector roadway, it shall be designed to allow through lots along the arterial or major collector road with access from a frontage road or interior local road. Access rights of these lots to the arterial or major collector roadway shall be dedicated to the Town and recorded in the deed.

§ 143-72.13 Emergency access performance standards.

Buildings, structures, parking lots, and landscaping shall be arranged so that access by emergency vehicles will not be inhibited.

§ 143-72.14 Medians and other off-site improvements performance standards.

When warranted, the Planning Board shall require applicants to construct necessary off-site improvements to accommodate new developments. Such improvements shall include, but not be limited to:

- A. Medians.
- B. Traffic Signage.
- C. Drainage Improvements.
- D. Sidewalks or other pedestrian infrastructure, or modifications to existing pedestrian infrastructure.
- E. Traffic Signals.
- F. Curbing.

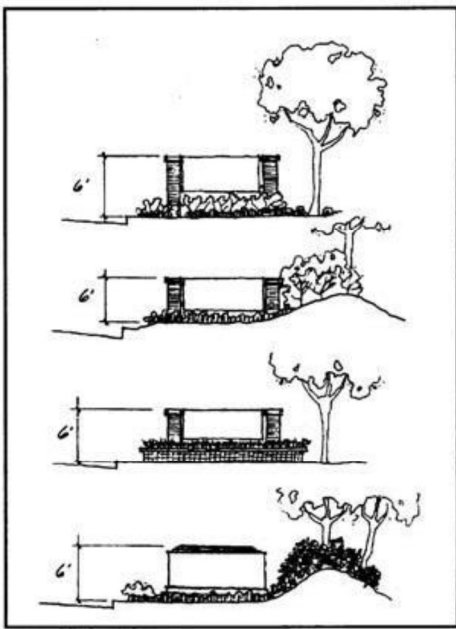
§ 143-72.15 Signage design performance standards.

Freestanding monument styles signs and wall signs shall be permitted

- A. Freestanding Signs.
 - (1) Location: Freestanding monument signs or directory signs shall be placed perpendicular to approaching vehicular traffic.
 - (2) Design: Freestanding monument signs shall be designed to generally conform with and be limited to styles presented in figure titled "Design Requirements for Freestanding Signs." Such signs shall contain the following:
 - (a) The identification of the business or center as a whole.

- (b) Major tenant and street address range included within the center.
- (c) A freestanding sign shall be either a monument or directory type sign.
- (d) Maximum height shall be six feet.
- (e) Maximum area shall be 32 square feet.

Figure: Design Requirements for Freestanding Signs



- (3) Materials: Freestanding or monument style signs shall be constructed of carved or painted wood, stone, or other masonry products.
- (4) Lighting: Internally illuminated signs are not permitted within the Soucook River Development District.
- (5) Signage Landscape Strip: A Signage Landscape Strip shall be constructed to re-establish ground cover where disturbed by sign installation and to screen the foundation of monument or pedestal signs without blocking the view of signage information.

- (a) Location: The Signage Landscape Strip shall be a minimum ten-foot wide area surrounding each monument or pedestal sign base. Said area shall be covered with bark mulch or stone. Grass is prohibited.
- (b) Plantings: All monument or pedestal sign bases shall be planted with shrubs or ground cover with a minimum height and width of 18 inches at the time of planting.
- (c) Incentive Bonuses: Healthy vegetation that is preserved in the location of the Signage Landscape Area may be substituted for the required plantings.

B. Wall and Eaveline Signs.

(1) Single Tenant Buildings:

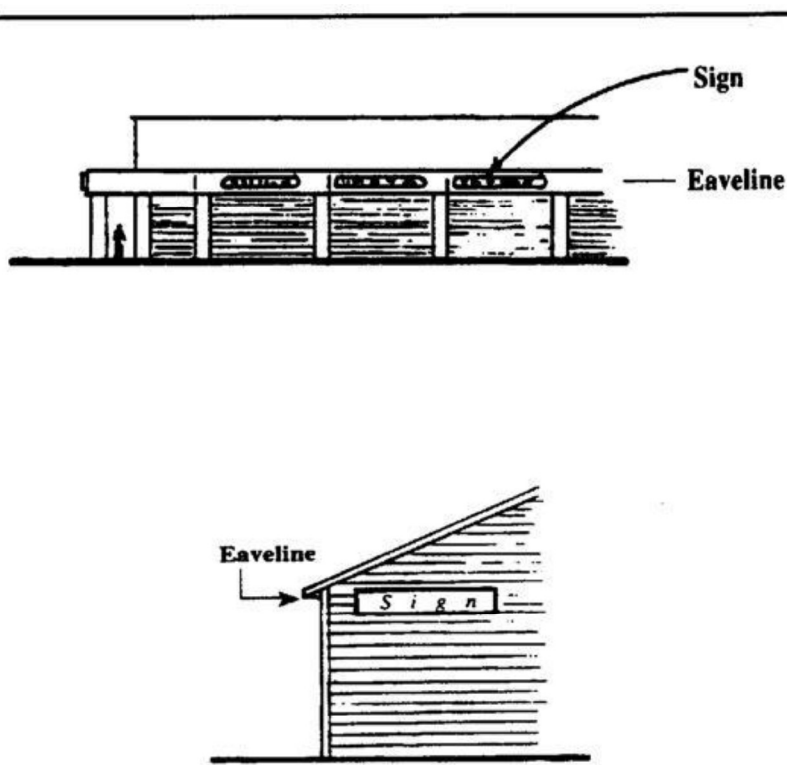
- (a) Location: Wall and eaveline signs shall be designed to be compatible with the predominant visual elements of the building and emphasize architectural elements of the building's facade. Wall and eaveline signs shall be located at the same height as the eaveline in accordance with examples included in Figure 2. *Editor's Note: See Figure: Required Location for Wall and Eaveline Signs at the end of this section.*
- (b) Compatibility: Signs shall establish a visual continuity with adjacent building facades and should be oriented to emphasize pedestrian visibility.
- (c) Individual Letter Height: Wall and eaveline signs shall be limited to a maximum letter height of 24 inches. The letter area, as it relates to the overall sign background area, shall be in proportion. In general, letters shall not occupy more than 75% of the sign panel area.

(2) Multi-Tenant Buildings:

- (a) Design Standards: All signs at a multi-tenant commercial or industrial structure shall be complementary to each other as follows:
 - [1] Letter size and style of text;
 - [2] Sign support method;
 - [3] Sign area configuration;
 - [4] Sign shape and proportion;
 - [5] Construction materials (text and background surfaces); and
 - [6] The use of back lit, individually cut, letter signs are encouraged.

- (b) Individual Letter Height: The height of all letters, logos, and insignias on wall and eaveline signs for multi-tenant buildings shall not exceed one foot. The letter area, as it relates to the overall sign background area, shall be in proportion. In general, letters shall not occupy more than 75% of the sign panel area.
- (c) Location: Wall and eaveline signs shall be located at the same height as the eaveline in accordance with examples included in figure titled "Required Location for Wall and Eaveline Signs."

Figure: Required Location for Wall and Eaveline Signs



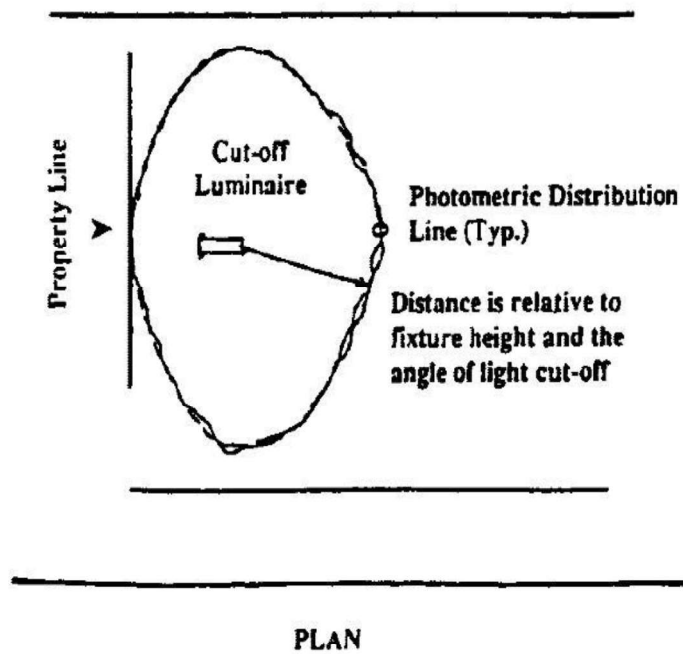
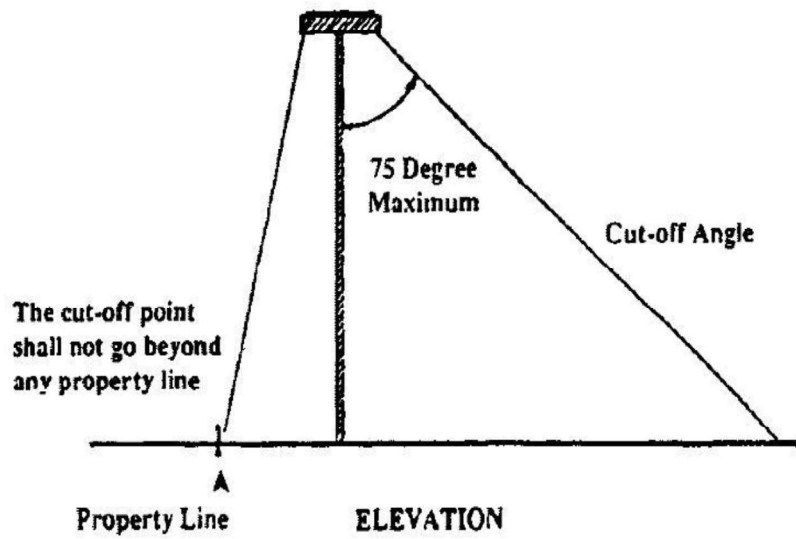
§ 143-72.16 Exterior lighting performance standards.

Lighting is an important component of site development. Excessive lighting can produce glare and adversely impact abutting properties, as well as contribute to light pollution. The

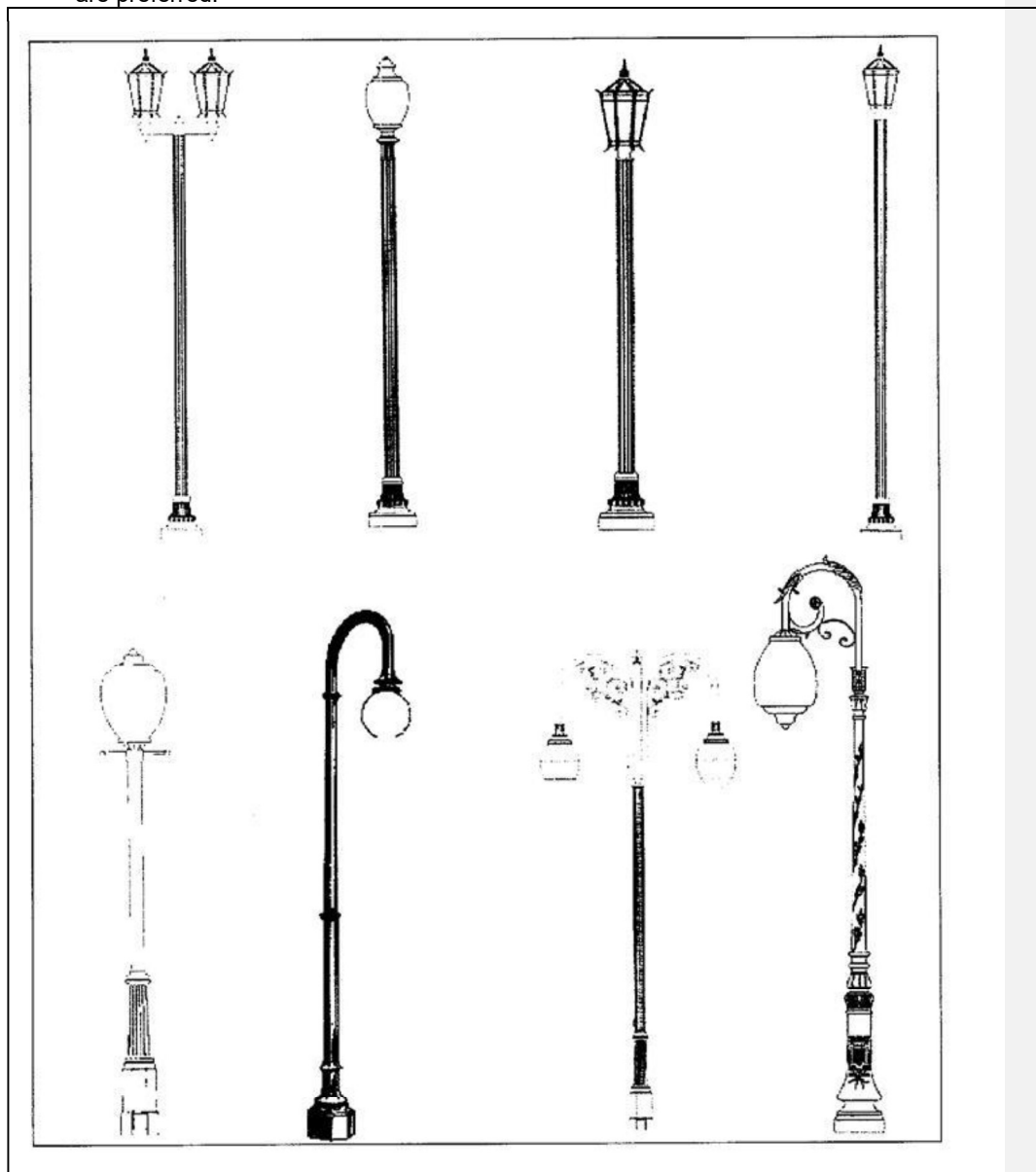
following performance standards shall apply to exterior lighting designs for all nonresidential site plans:

- A. Exterior lighting shall be designed to coordinate with the building architecture and landscaping, and should contribute to the character of the property, neighborhood, and street.
- B. The type of lighting fixtures used shall be uniform for the entire site.
- C. A qualified lighting engineer shall review exterior lighting designs. All costs shall be borne by the applicant.
- D. Lighting fixtures shall be positioned to prevent undesirable incidental illumination of abutting properties, the street, and the nighttime sky. Glare, directions, and light level should be considered in design of illumination plans.
- E. Security, parking lot, and sign lighting shall be shielded or otherwise designed to ensure the light is directed downward.
- F. Overall lighting levels should be consistent with the character and intensity of existing lighting in the area surrounding the project site.
- G. Fixtures should be mounted to provide surface illumination.
- H. Parking lot and security lighting shall not exceed a maximum of 15 feet in height, including lamp, pole, and base.
- I. Parking lot lighting shall provide a minimum of two foot-candles of light at ground level.
- J. Parking lot entrances and intersections shall provide a minimum of five foot-candles of light at ground level.
- K. Public spaces and sidewalks shall provide a minimum average of one foot-candle of light at ground level.
- L. To prevent light pollution and impacts on abutting properties, the total cutoff of light should occur within the property lines of the parcel to be developed.

Design of External Lighting Fixtures



M. Lighting fixtures shall be architecturally complementary with general architectural style and scale of the development and surrounding neighborhood. The following styles are preferred:



§ 143-72.17 Exterior building facade performance standards.

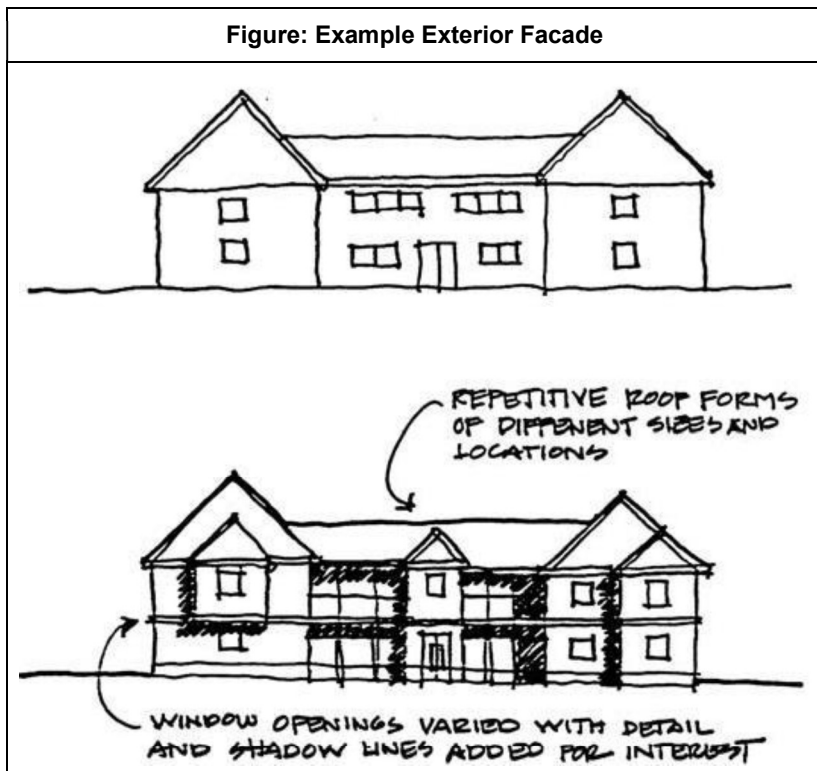
The objective of the following standards is to preserve and enhance the aesthetic qualities of the Soucook River Development District by requiring landscaping and design standards that are appropriate and proportionate to the intensity of the proposed land use. It is the intent of the Town of Pembroke to encourage developers to work with the Planning Board using these guidelines to create attractive developments that acknowledges the unique character of the land within the district. The following performance standards shall apply to all new, or additions to existing nonresidential or mixed use structures.

- A. Submittal Requirements: Color building elevation plans depicting all four sides and/or visual simulation techniques showing the impact of the development from all sides should be required for submittal with each application.
- B. Building Orientation:
 - (1) The proposed building orientation should respect the orientation of surrounding buildings, existing pedestrian paths and sidewalks, and the orientation of surrounding streets.
 - (2) Building facades should be oriented parallel to the street and maintain a consistent street edge in relationship to adjacent structures.
 - (3) Buildings should be sited to maximize public comfort by providing shaded public outdoor areas, minimizing glare, and facilitating breezes.
 - (4) Buildings shall be oriented so that entrances are clearly identifiable and directly accessible from a sidewalk.
- C. Surface Materials / Building Cladding: No exterior building surface visible from a public right-of-way or abutting residential property shall be constructed of any material except face brick, stone, stucco, architecturally treated concrete, cast in place or pre-cast panels, decorative block, glass, clapboards, shingles, shakes, vinyl siding, or a combination thereof. Metal may be used on a maximum of 10% of the visible exterior building surface.
- D. Exterior Colors: Subtle, neutral colors shall be used on larger, plain buildings, such as warehouse style or "big box retail centers." Paint colors shall relate to natural material colors found on buildings such as brick, stucco, stone, and existing elements such as signs or awnings. Complementary colors and accent architectural details, such as cupolas, mansard roofs, awnings, and other similar items are required.
- E. Relation to Abutting Properties / Structures: Buildings shall relate vertical, horizontal, or non-directional facade characteristics of new buildings to the

predominant direction expression of nearby buildings constructed under these standards.

- F. Building Details for Visual Interest: To create unique and visually interesting nonresidential structures compatible with Pembroke's unique character, new developments should incorporate the use of strong vertical / horizontal reveals. Projections, recesses and three dimensional details between surface planes should be used to create shadow lines and break up facades.
- (1) Projections / Recesses: Facade and exterior walls should incorporate minimum of 3% wall plane projections / recesses. The maximum uninterrupted facade length should not exceed 35% of the total facade. Please refer to figure titled "Example Exterior Facade" for more detail.
- (2) Entryways:
- (a) Entryways should be a distinct feature of any structure. The building(s) should provide for clearly defined, highly visible entries with a minimum of three of the following details:
- [1] Porticos.
 - [2] Canopies.
 - [3] Over hangs.
 - [4] Arcades.
 - [5] Recesses or projections.
 - [6] Raised Cornice parapets over doors.
 - [7] Arches with detail (tile work or moldings) integrated with building.
 - [8] Outdoor patios.
 - [9] Display windows.
 - [10] Integral planters.
 - [11] Wing walls or planters with seating
- (b) Please refer to figure titled "Example Exterior Facade" for more detail.
- G. Varied Window Patterns and Placement: To ensure the development of nonresidential structures which are consistent with, and improve the architectural

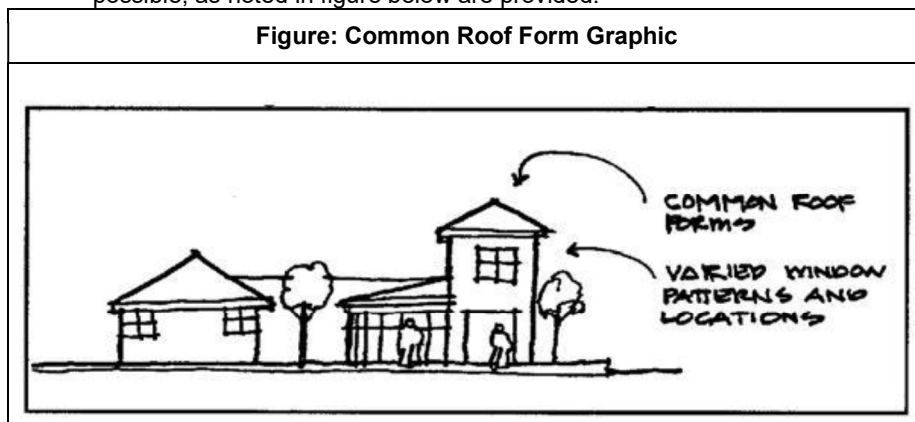
character of Pembroke, varied offsets, roof heights, and roof forms, as well as window placement shall be incorporated into all new structures, or additions to existing structures. Please refer to figure titled "Example Exterior Facade" for more detail.



- H. Roof Form: Roof form is an important visual element and can have a significant impact on a building's form and silhouette. The following design requirements are required for roof lines for all nonresidential structures:
- (1) New roofs shall relate to the roof forms of adjacent structures where appropriate by duplicating the shape, pitch, and materials.
 - (2) Long, unbroken expanses of roof shall be avoided by incorporating changes in ridgeline, dormers, or chimneys.
 - (3) A peaked roof forms with a minimum 6:12 roof pitch and gable ends oriented to the street whenever possible.
 - (4) Roofs should have adequate overhangs.

- (5) Roll roofing, tar, gravel, plastic, or fiberglass roofing materials are not appropriate.
- (6) Common roof forms shall be duplicated on the primary structure whenever possible, as noted in figure below are provided.

Figure: Common Roof Form Graphic



- I. Rooftop Mechanical Equipment: All rooftop mechanical equipment shall be screened from view with either building walls or roof forms. All sides visible to the public and abutters shall have screen materials. Screening materials shall be the same material as used for building cladding.

§ 143-72.18 Front / side / and rear yard and building perimeter landscaping performance standards.

A landscaping plan prepared by a professional landscape architect shall be filed with all site plan applications unless a request for waiver is filed with the application. Said landscape plans shall address landscaping associated with parking lot design, building design, and general site design.

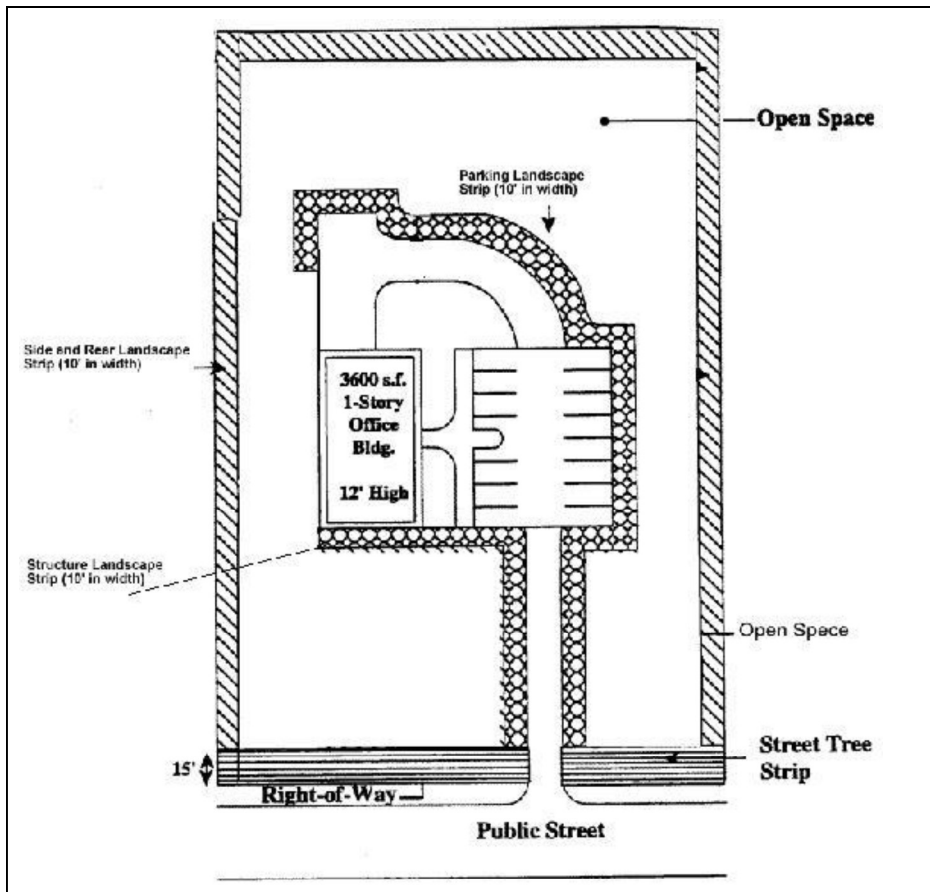
- A. Submittal Requirements: All site plan applications shall include a separate Landscaping Plan, which shall include the following:
 - (1) Existing and proposed landscape features.
 - (2) Proposed locations of all plants and materials.
 - (3) A planting schedule.
 - (4) The botanical and common names of all proposed species of plants.
 - (5) The size, quantity, and description of all plants.

- (6) If applicable, the location of existing trees, shrubs, and planting beds to be retained should be described.
- (7) The height and caliper of trees and shrubs at the time of planting and maturity.
- (8) A maintenance surety to ensure that any planted materials will be replaced in the event they are damaged or die.

B. General Requirements:

- (1) All dead vegetation shall be promptly replaced, based on seasonal planting practices with healthy living plants in all required landscape areas. All planting areas should be landscaped with a combination of climate tolerant plant material and protective ground cover. Bare soil is not permitted.
- (2) No loam shall be removed from the site. All loam shall be stockpiled on the site and stabilized for redistribution.
- (3) Side slopes shall not exceed 33% (3:1 slope) and should be stabilized with loam and seed, hydro-seed, sod, ground cover, or mulching materials.

C. Front/Side/Rear Yard Landscaping Requirements: Front, side, and rear landscape strips are defined in the following graphic:

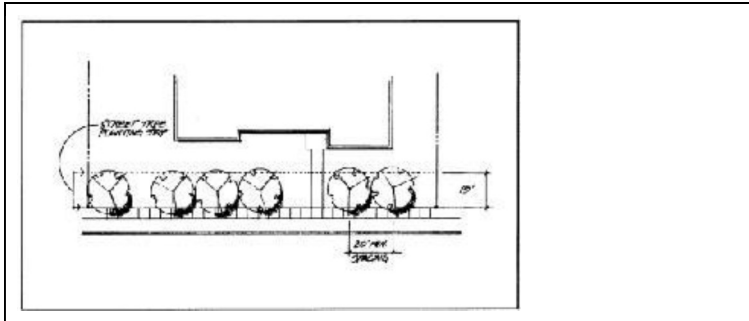


(1) Street Tree Landscape Area:

(a) Location: The front yard landscape area shall be a minimum of 15 feet wide and run parallel to the entire frontage of the parcel.

(b) Planting Materials:

[1] Street Trees: One drought or and salt tolerant shade tree per 20 feet of frontage, at 2-1/3 to three inches caliper at a height of 12 feet at time of planting. Evergreen trees shall not be used in front yard landscape strip, unless such trees are pre-existing and permitted by the Planning Board. Please refer to figure below for more detail.



[2] Shrubs: One shrub per five feet of frontage, 2-1/3 to three feet in height at time of planting. Thirty percent of shrubs in front yard landscape area shall be evergreen.

[a] Evergreen shrubs shall be a minimum of 2-1/2 feet in height at time of planting; full and well branched, unless otherwise specified by the Planning Board or these regulations.

[b] Deciduous or flowering shrubs should be planted at 3-1/2 feet in height at time of planting, full and well branched, unless otherwise specified by the Planning Board or these regulations.

[3] Planting Beds: One planting bed per 50 feet of frontage shall be provided. Each bed shall have a minimum area of 500 square feet, and include mulch, stone, perennial flowerbeds. Required trees or shrubs may be located in planting beds.

[a] Ground cover is defined as a low growing plant, other than turf or grass, which forms a continuous ground cover on ground surface.

[4] Fences and stonewalls are encouraged, but not required in front-yard landscape area.

(2) Side / Rear Yard Landscape Area:

(a) Location: The side and rear yard landscape areas shall be a minimum of 10 feet wide and run parallel to all side and rear lot lines. All non-residential uses within this district shall provide adequate screening and buffers for all residential uses.

(b) Planting Materials:

[1] Shade / Buffer Trees: One evergreen tree per 10 feet of lot line, and one shade tree per 30 feet of lot line, at 2-1/3 to three inches caliper at a height of 12 feet at time of planting.

[a] Shade trees shall be hardy, drought and salt resistant, 12 feet height or 12 feet at time of planting, and deciduous.

[b] Evergreen trees should be hardy with a minimum of six-foot height at time of planting, full and well branched. Evergreens shall be planted in groups of trees, spaced diagonally according to species requirements.

[c] Plantings shall be staggered similar to example provided in figure titled "Sample Planting Plan for Side and Rear Landscape Areas."

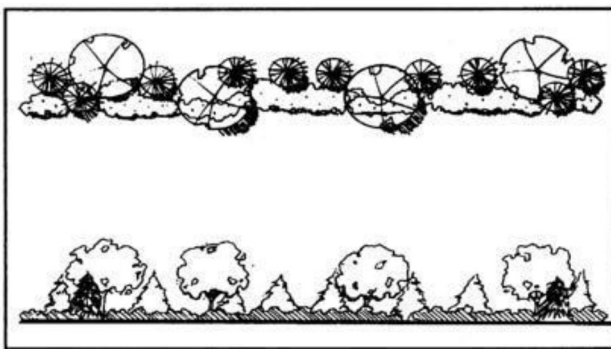
[2] Shrubs: One evergreen shrub per five feet of lot line, and one deciduous shrub per 10 feet of lot line.

[a] Evergreen shrubs shall be a minimum of 2-1/2 feet in height at time of planting; full and well branched, unless otherwise specified by the Planning Board or these regulations.

[b] Deciduous or flowering shrubs should be planted at 3-1/2 feet in height at time of planting, full and well branched, unless otherwise specified by the Planning Board or these regulations.

[c] Plantings shall be staggered similar to example provided in figure titled "Sample Planting Plan for Side and Rear Landscape Areas"

Figure: Sample Planting Plan Side & Rear Landscape Areas



[3] Planting Beds: One planting bed per 50 feet of lot line shall be provided. Each bed shall have a minimum area of 500 square feet, and include mulch, stone, ground cover, and perennial flowerbeds. Required trees or shrubs may be located in planting beds.

[a] Ground cover is defined as a low growing plant, other than turf or grass, which forms a continuous ground cover on ground surface.

[4] Berms and Fences: Berms and fences will be required to insure a dense buffer.

[5] In areas where existing vegetation along side and rear lot lines has not been disturbed, and a suitable buffer exists in the opinion of the Planning Board, these requirements may be foregone.

(3) Building Perimeter Landscape Area:

(a) Location: The side and rear yard landscape areas shall be a minimum of 10 feet wide and run parallel to all sides of proposed buildings to be visible from abutting streets and / or residential properties.

(b) Planting Materials:

[1] Shade / Buffer Trees: One evergreen tree per 10 feet of building perimeter, and one shade tree per 20 feet of building perimeter, at 2-1/3 to three inches caliper at a height of 12 feet at time of planting. Trees may be planted in clusters in order to accommodate building design elements.

[a] Shade trees shall be hardy, drought and salt resistant, 12 feet height or 12 feet at time of planting, and deciduous.

[b] Evergreen trees should be hardy with a minimum of six-foot height at time of planting, full and well branched.

[2] Shrubs: One evergreen shrub per five feet of lot line, and one deciduous shrub per 10 feet of lot line.

[a] Evergreen shrubs shall be a minimum of 2-1/2 feet in height at time of planting; full and well branched, unless otherwise specified by the Planning Board or these regulations.

[b] Deciduous or flowering shrubs should be planted at 3-1/2 feet in height at time of planting, full and well branched, unless otherwise specified by the Planning Board or these regulations.

[3] Planting Beds: A continuous planting bed, at least 10 feet in width shall be provided along the entire perimeter or proposed buildings which are visible from streets or residential properties. Each bed shall include mulch, stone, ground cover, and perennial flowerbeds. Required trees or shrubs may be located in planting beds.

[a] Ground cover is defined as a low growing plant, other than turf or grass, which forms a continuous ground cover on ground surface.

- (4) Open Space Areas: All remaining areas of a parcel which are not located within front, side, rear, or building perimeter landscape area shall be covered with a minimum of four inches of screened loam and seeded. All loam and seed specifications shall be acceptable to the Planning Board or their designee.

§ 143-72.19 Screening of accessory structures and unsightly features.

- A. Outdoor Storage Areas: All stock piled materials shall be located so as to be out of view from any abutting property and/or public right of way. In cases where this is not possible, these items shall be properly located within a secured area that has been effectively screened. At minimum, all such areas shall be concealed with a stockade, chain link, or similar fencing which is at least as tall as the items to be stockpiled and landscaped with materials.
- B. Dumpster / Waste Material Storage Areas: All waste material shall be kept in an enclosed building or properly enclosed building or properly contained in a closed container designed for such purposes. The owner shall be responsible for keeping such land free of refuse. All exterior trash containers shall be screened on each side and shall not be visible from any street. Screening shall be by means of an opaque structure, earthen berm, or landscaping at least eight feet in height and shall be architecturally compatible with the principal structure.

§ 143-72.20 Utilities.

All nonresidential structures / sites shall be serviced by underground utilities. Above ground utility boxes shall be landscaped.

§ 143-72.21 Environmental performance standards.

To protect the environmentally sensitive nature of land contained within the Soucook River Development District, the following environmental performance standards are enacted:

- A. Reserved. **[Noise standards removed 3-8-2016 Town Meeting by Amendment No. 1]**
- B. Vibration. An operation, which creates intense earthshaking vibration, e.g., heavy drop forges, heavy hydraulic surges, shall not be discernible beyond the property lines of the parcel where vibration is created.

- C. Radioactivity. No operation shall be permitted which causes radioactivity in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, Standards for Protection Against Radiation, dated June 16, 1957, or any subsequent revision or amendments.
- D. Odor. Uses and activities which produce continuous, regular, or frequent odors and/ or emissions, detectable beyond the boundary of the property from which the odor originates, shall be prohibited, in whole or in part, if the odor or emission in question is a known health risk or danger or if the Planning Board judges such odor or emission to be harmful to the rights of others to enjoy their property(s).
- E. Hazardous waste. The disposal, treatment, bulking or handling (hereinafter collectively called treatment) of hazardous waste shall not be permitted within the Soucook River Development District. The temporary storage of hazardous waste other than for treatment is permitted only when it is used, manufactured or generated as a waste as part of an industrial, manufacturing or laboratory process that takes place on-site, and in such event, the same shall be inventoried and stored inside a building with an impermeable floor and otherwise handled in strict conformance with all applicable Federal and State regulations governing same. The records pertaining to such inventory and storage shall be open to the Board of Selectmen and/or the Pembroke Fire Department upon request.
- F. Glare. No direct or reflected glare shall be detectable from any property within the Soucook River Development District.
- G. Heat. No direct or reflected heat shall be detectable from any property within the Soucook River Development District.
- H. Dust and Fly Ash. No solid or liquid particles shall be emitted in such a quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond lot lines.
- I. Smoke. No smoke shall be emitted in such quantity as to become a nuisance.

§ 143-72.22 Waivers.

The Planning Board, at its discretion, may waive any standard included in this section provided that the following are met:

- A. The granting of a waiver shall not be detrimental to the public safety, health, or welfare or cause injury or damage to other property, or fail to promote the public interest;
- B. The waiver will not in any manner vary the provisions of the Zoning Ordinance or Master Plan;

- C. Such waiver(s) will substantially ensure that the goals, objectives, standards, and requirements of these regulations are not compromised;
- D. The requirements of these regulations are not appropriate due to the size or scale of a development;
- E. That a particular hardship or circumstance exists that warrants granting of a waiver. Such circumstances may include:
 - (1) Topography;
 - (2) Soil constraints / wetlands;
 - (3) Geographic location of the property;
 - (4) Size and/or magnitude of the project being evaluated

6.143-72.23 Mixed Use Special Use Permit.

A. Purpose: The purpose of this section is to provide for the incorporation of some residential development within the Soucook River Development District that is complementary to the uses permitted in the district in order to encourage growth that reflects the goals of the master plan, while mitigating its impacts. Residential development shall be integrated into this commercial zone in a way that is harmonious in its design and aesthetic, and symbiotic in its function.

The Planning Board, after proper public notice and a public hearing thereon, may grant a special use permit to allow residential use. In order to be granted a special use permit from the Planning Board, the applicant must demonstrate to the satisfaction of the Planning Board that the following criteria are met. The section below states which uses may qualify for application for a special use permit and the requirements thereof.

B. Criteria for Granting a Special Use Permit.

- a. The proposed mixed use shall not create undue hazards or unreasonable expenditures of public funds, and the public health and safety will be maintained during and following development.
- b. The proposed mixed use shall include provisions, satisfactory to the Planning Board, to insure that current and future municipal service capacity for police, fire, ambulance, public works, water, sewer, general government, recreation, school services and facilities will not be adversely affected by the development.

c. Adequate and appropriate public utilities and infrastructure (water, sewer, stormwater management, and other) shall be available or provided to support the mixed use development.

C. Design Requirements.

d. At least 50% of the square footage of the proposed mixed use development must be commercial.

e. Number of units permitted shall be in accordance with the Density Requirements of the B1 Zone for that particular type of dwelling.

f. Any proposed mixed use within the same building must reserve the street level for commercial use.

g. Any subdivision of land into single-family lots or condominiums shall be restricted from further subdivision by deed.

h. Any single-family homes shall be restricted from conversion to multifamily residences by deed.

i. Buffers between residential and non-residential uses shall be in accordance with Section 143.72.18.

j. The Planning Board may require the preparation and review of any relevant study at the applicant's expense. This may include, but not be limited to, fiscal impact assessment, municipal service capacity report, environmental review, traffic impact study, or other safety assessment.

k. Any proposed change to a plan approved through this special use permit shall be amended only through the Planning Board after proper public notice and a public hearing thereon.

Waivers: Upon the applicant's request, the Planning Board may waive any of the requirements of this section provided the applicant demonstrates and the Board makes a finding that the waiver will properly carry out the spirit and intent of this section.