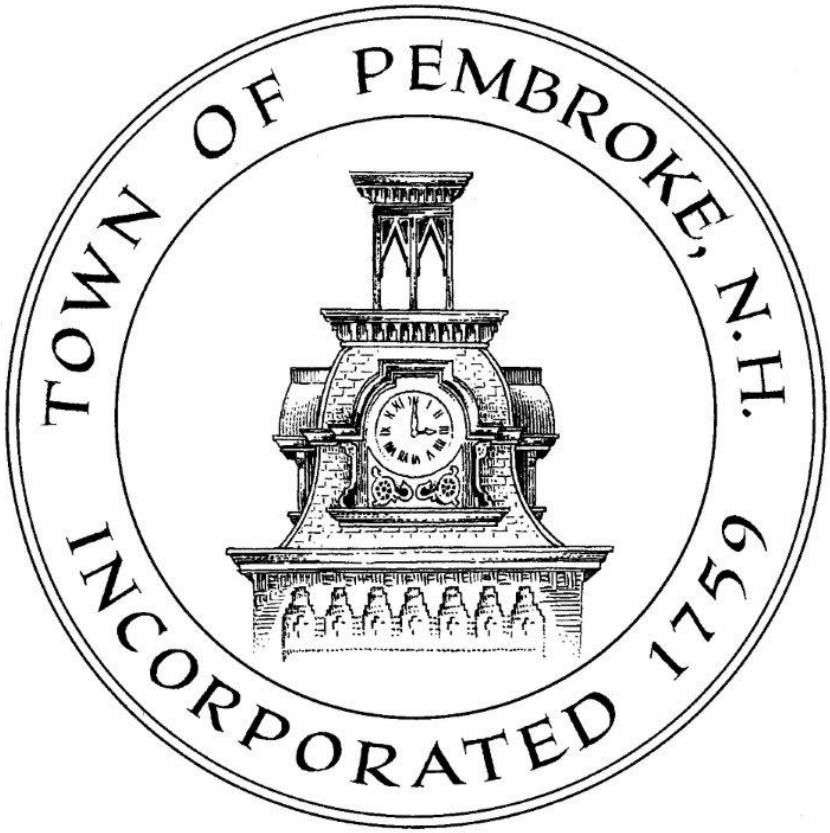
Town of Pembroke



Zoning Ordinance

Adopted: March 5, 1975
Superseded: March 14, 1995
Last amended: March 9, 2021

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CHAPTER 143

ZONING

[HISTORY: Adopted 3-14-1995 Town Meeting. (This chapter supersedes former Chapter 143, Zoning, adopted 3-5-1974, as amended.) Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. **30**.
Building construction — See Ch. **58**.
Conservation of land — See Ch. **66**.
Planning Board regulations — See Division 3.

ARTICLE I - General Provisions (§ 143-1 — § 143-6)

§ 143-1 Title.

This chapter shall be known and cited as the "Zoning Ordinance of the Town of Pembroke, New Hampshire", hereinafter referred to as "This Chapter."

§ 143-2 Authority.

A. This chapter is adopted pursuant to the authority granted by RSA 674:16, New Hampshire Revised Statutes Annotated, as amended.

B. The Planning Board is authorized to require preliminary subdivision review. The subdivision regulations regarding the requirements of such review are to be prepared and adopted by the Planning Board. **[Added 3-8-2005 Town Meeting by Amendment No. 11]**

§ 143-3 Purpose.

This chapter is made in accordance with the Pembroke Master Plan and is designed to lessen congestion in the streets; to secure safety from fires, panic and other dangers; to promote health, safety, and the general welfare of its citizens; to provide adequate light and air; to prevent the over-crowding of the land; to avoid undue concentration of population; to facilitate the adequate provision of

transportation, solid waste facilities, water, sewerage, schools, parks, child day care; and to assure proper use of natural resources and other public requirements.

§ 143-4 Interpretation.

The provisions of this chapter shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals, and the general welfare of the Town of Pembroke, New Hampshire. The provisions of this chapter are not intended to repeal, or in any way impair or interfere with any lawfully adopted ordinance, regulation, or rule. Whenever the regulation made under the authority hereof differ from those prescribed by any ordinance, regulation, or rule, that provision which imposes the greater restriction or the higher standard shall govern.

§ 143-5 Application.

Except as herein provided, the provisions of this chapter shall apply to the erection, construction, enlargement, reconstruction, relocation, or use of buildings and structures or use of land within the Town of Pembroke. This chapter shall not apply to lawfully existing buildings or structures, nor to the lawfully existing use of any building, structure, or land, to the extent to which it is lawfully used at the time of enactment of this chapter. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become non-conforming and any existing non-conforming use, structure, or lot shall not become further non-conforming.

§ 143-6 Separability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

ARTICLE II Word Usage and Definitions (§ 143-7 — § 143-8)

§ 143-7 Word usage.

For purposes of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

A. Unless the context clearly indicates to the contrary, words used in the present tense shall include the future tense; words used in the plural shall include the singular; words used in the singular shall include the plural; the word "herein" shall mean "in this chapter"; the word "chapter" shall mean "this chapter."

B. A "person" shall include natural persons as well as a corporation, a partnership, and/or an incorporated association of persons such as a club; "shall" is always mandatory; the word "may" is permissive; a "building" is a "structure", however a structure is not necessarily a "building"; a "building" or "structure" shall mean any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

C. Words not specifically defined herein shall have their common meaning.

§ 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.

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.

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.

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.

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 437:2, I-a., 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 note #13 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 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 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 - *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 preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary 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 note #8 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 note #4 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 note #9 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 floodplain management purposes ONLY the term "Manufactured Housing/Home" means a structure, transportable in one or more sections, which is built on 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 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.

MANUFACTURED HOUSING SUBDIVISION - A parcel of land which has been planned and improved for the placement of manufactured housing for 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 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 ENTERMAINMENT 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:

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;

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;

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

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

	For 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;

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 note #14 & #15 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 note #5 & #14 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,XXII 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 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. 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 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".

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:

(a) Is not the result of ongoing anthropogenic activities that are not intended to provide compensatory mitigation, including but not limited to
   (1) Gravel pit operations in a pit that has been mined at least every other year; and
   (2) Logging and agricultural operations conducted in accordance with all applicable New Hampshire statutes and rules; and

(b) Typically has the following characteristics:
   (1) Cycles annually from flooded to dry conditions, although the hydroperiod, size, and shape of the pool might vary from year to year;
   (2) Forms in a shallow depression or basin;
   (3) Has no permanently flowing outlet;
   (4) Holds water for at least 2 (two) continuous months following spring ice-out;
   (5) Lacks a viable fish population; and
   (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 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, (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.

ARTICLE III- Establishment of Zoning Districts (§ 143-9—§ 143-13)

§ 143-9 Division into districts.

The Town of Pembroke, New Hampshire, is hereby divided into six Zoning Districts to be designated as follows:

FULL NAME	SHORT NAME
Medium Density-Residential	R1
Rural/Agricultural-Residential	R3
Business/Residential District	B1
Central Business District	B2
Commercial/Light Industrial	C1
Limited Office District	LO
Soucook River Development District **[Added 3-12-2002 Town Meeting by Amendment No. 5]**	SR

§ 143-10 Overlay districts.

The following overlay districts shall be superimposed upon other districts in this chapter. The regulations pertaining to the overlay zone shall be in addition to the regulations of the underlying districts and other Town ordinances and regulations. In all cases where the standards for these districts conflict with those of the underlying district, the more restrictive requirement(s) shall apply. The overlay districts are:

FULL NAME	SHORT NAME
Architectural Design District	AD
Aquifer Conservation District	AC
Floodplain Development District	FD
Shoreland Protection District	SP
Suncook Business District **[Added 3-8-2005 by Amendment No. 2]**	SB
Wetlands Protection District	WP
Municipal Separate Storm Sewer System	MS4

§ 143-11 Zoning Map.

Pursuant to RSA 674:57, by resolution of the Town of Pembroke Board of Selectmen, all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Merrimack, NH" dated April 19, 2010, together with the associated Flood Insurance Rate Maps dated April 19, 2010, are declared to be part of the Town of Pembroke Floodplain Development Ordinance and are hereby incorporated by reference. **(Amended January 3, 2010 Public Hearing by Board of Selectmen)**

A. "Flood Insurance Study for the County of Merrimack, NH" dated April 19, 2010, or as amended, together with the associated Flood Insurance Maps

dated April 19, 2010, or as amended. **(Amended January 3, 2010 Public Hearing by Board of Selectmen)**

B. The map titled "Map Showing Saturated Thickness, Transmissivity, and Materials of Stratified-Drift Aquifers in the Upper Merrimack River Basin, South-Central New Hampshire, Southwestern Part, Plate 5 and 6," which was prepared by the US Geological Survey in cooperation with the New Hampshire Department of Environmental Services Water Resources Division and dated 1996. **[Amended 3-13-2007 Town Meeting by Amendment No. 1]**

§ 143-12 Changes to Zoning Map.

Any change in the location of boundaries of a Zoning District hereafter made through the amendments of this chapter shall be indicated by the alteration of such map, and the map thus altered is declared to be part of this chapter thus amended.

§ 143-13 Rules for interpretation of district boundaries.

In interpreting the boundaries of districts as shown on the zoning map, unless specifically indicated otherwise, the following rules shall apply:

A. Where a boundary is indicated as a street, railroad, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a Town Boundary, then to the limits of the Town Boundary.

B. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, such boundary shall be interpreted as parallel thereto and at such distance, as measured from the centerline of that object, there from as indicated on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.

C. Where a dimensioned boundary coincides within 10 feet or less with a lot line, the boundary shall be construed as to be the lot line.

D. Where a boundary is indicated as intersecting the centerline of a street, railroad, watercourse, or other water body, it shall be construed as to intersect at right angles to said centerline, or in the case of a curved

centerline, at right angles to the tangent of the curve at the point of intersection.

E. When a lot is transected by a Zoning District Boundary, the regulations of the chapter applicable to the larger area of such lot may also, at the option of the owner, be deemed to govern in the smaller area of the lot, but only to an extent not more than 100 linear feet in depth beyond such Zoning District Boundary.

F. In cases not covered by (A) through (E) above, the Zoning Board of Adjustment shall resolve district boundary questions.

ARTICLE IV - Use Regulations (§ 143-14 — § 143-19)

§ 143-14 Applicability of use regulations.

No building, structure, or land shall be used or occupied except for the purposes permitted in the district in which it is located as set forth in the following Table of Uses, or as provided elsewhere in this chapter.

§ 143-15 Use regulations.

In the following Table of Uses, the uses permitted by right in the district shall be designated by the letter (P). Those uses that may be permitted by special exception in that district, in accordance with article **XIV**, shall be designated by the letter (S). A use listed in the Table of Uses and denoted with a dash (-) is not permitted in that district. Any use not listed in the Table of Uses shall be construed as to be prohibited.

§ 143-16 Uses subject to special conditions.

A permitted use or special exception, for which there is any reference in the column of the Table of Use Regulations entitled Special Conditions, must meet such conditions as are referred to in that column.

§ 143-17 Multiple uses in the B1, B2, C1, and LO Districts.

[Amended 3-8-2005 Town Meeting by Amendment No. 6]

Within the B1, B2, C1, and LO Districts only, multiple uses shall be allowed on a single lot provided that the uses are permitted by right. Uses permitted by special exception shall only be permitted as multiple uses in these districts by special exception.

§ 143-18 Definitions.

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.

Accessory buildings or uses are permitted on a lot containing a principal use provided that the following conditions are met:

A. It can be shown that the building or use is incidental and commonly subordinate to the principal building or use of the lot within that zoning district;

B. An accessory building or use shall only be permitted for structures or uses in conformance with the provisions of that zoning district;

C. The setbacks for an accessory building or use shall conform to the requirements of §**143-21** and §**143-22**; and

D. Accessory uses shall not exceed 40% of the total lot area, or 40% of the principal building in which it is located. The Code Enforcement Officer shall determine if the proposed accessory building or use is incidental and commonly subordinate to the principal building or use of the lot.

§ 143-18.1 Accessory dwelling units.

[Added 3-13-2007 Town Meeting by Amendment No. 12, Amended 3-14-2017 Town Meeting by Amendment No. 1; Amended 3-13-2018 Town Meeting by Amendment No. 1]

One Accessory Dwelling Unit (ADU) shall be permitted in accordance with the NH Planning and Land Use Regulations RSA 674:71, 674:72, 674:73 as amended. Further, one ADU shall be permitted in all zones that allow single Family Detached Dwelling Units by special exception from the zoning board of adjustment with the following stipulations.

A. An accessory dwelling unit shall be clearly incidental to the primary use of the property for a single-family dwelling. Such accessory living space shall not exceed 750 square feet and all appropriate town building codes shall be followed.

B. An accessory dwelling unit may be constructed either within or attached to the single-family dwelling.

C. At least one interior connecting door or other access for persons to pass between the accessory dwelling unit and the single-family dwelling must be included.

D. Septic system design/capacity shall be approved by the NH Department of Environmental Services and provided to the Town.

E. A minimum of one off street parking space shall be provided for an accessory dwelling unit, however, no new curb cut from the street shall be constructed.

F. Exterior construction and material shall be uniform and compatible with the single-family dwelling.

G. There shall be only one electric, water, and sewer service for both units.

H. This section of the ordinance does not preclude the applicant from having to comply with applicable sewer and water connection fees.

§ 143-19 Table of use regulations.

Uses permitted in each district designated below shall be as set forth in the following Table of Uses:

ZONING DISTRICTS

FULL NAME	SHORT NAME
Medium Density-Residential	R1
Rural/Agricultural-Residential	R3
Business/Residential District	B1
Central Business District	B2
Commercial/Light Industrial	C1
Limited Office District	LO

ZONING DISTRICTS

FULL NAME	SHORT NAME
Soucook River Development District **[Added 3-12-2002 Town Meeting by Amendment No. 5]** (Permitted uses in the SR District can be found in §143-72.6)	SR

OVERLAY DISTRICTS

FULL NAME	SHORT NAME
Architectural Design District	AD
Aquifer Conservation District	AC
Floodplain Development District	FD
Shoreland Protection District	SP
Suncook Business District **[Added 3-8-2005 Town Meeting by Amendment No. 3]**	SB
Wetlands Protection District	WP

TABLE OF USES

	USES	R1	R3	B1	B2	C1	LO	Special Conditions
RESIDENTIAL								
1.	Single family detached dwelling	P	P	P	P	-	P	
2.	Two-family dwelling	P	P	P	P	-	P	
3.	Multi-family dwelling not to exceed six dwelling units	S	-	S	S	-	S	§143-113
4.	Reserved	-	-	-	-	-	-	-
5.	Reserved	-	-	-	-	-	-	-
6.	Recreational vehicle	P	P	P	P	P	P	§143-26 & §143-31
7.	Manufactured housing park	-	P	-	-	-	-	§143-32
8.	Manufactured housing subdivision	-	P	-	-	-	-	§143-33
9.	Accessory uses	P	P	P	P	P	P	§143-18

TABLE OF USES								
USES		**R1**	**R3**	**B1**	**B2**	**C1**	**LO**	**Special Conditions**
COMMUNITY FACILITIES[6]								
1.	Church or other religious purposes	P	P	P	P	-	-	
2.	Educational purposes which are religious, sectarian, denominational, public, or non-profit	P	P	P	P	-	-	
3.	(Reserved)							
4.	Non-profit recreational facility, not including a membership club	P	P	P	P	-	-	
5.	Clubs such as country club, golf, swimming, tennis, yacht, skiing, and similar recreational facilities	S	S	S	-	-	-	§143-36 & §143-113
6.	Non-profit day camp or other non-profit camp	S	S	S	-	-	-	§143-37 & §143-113
7.	Town buildings, fire stations, police stations, public libraries, and Town equipment garages as long as the facilities are in compliance with the provisions outlined in Article IX Overlay Districts	P	P	P	P	P	P	
8.	Cemetery	P	P	-	-	-	-	
9.	Crematory	-	-	-	-	P	-	§143-113
10.	Hospital, sanitarium, or philanthropic institutions, nursing, rest, or convalescent home	S	S	S	S	-	-	§143-113
11.	Private libraries, museums, historical association or society	S	S	S	S	-	-	§143-113
12.	Public utilities such as: power or gas plants, water filter plant, sewage treatment plant, and refuse plant	S	S	P	S	S	S	§143-113
13.	Private utilities such as: power plant, water filter	S	S	S	S	S	S	§143-113

TABLE OF USES								
USES		**R1**	**R3**	**B1**	**B2**	**C1**	**LO**	**Special Conditions**
	plant, sewage treatment plant, and refuse plant							
14.	Accessory uses	P	P	P	P	P	P	§143-18

TABLE OF USES								
USES		**R1**	**R3**	**B1**	**B2**	**C1**	**LO**	**Special Conditions**
AGRICULTURAL[5, 14]								
1.	Commercial agricultural uses such as: agricultural, horticulture, floricultural, and agricultural retail outlets, except items listed in #9	P	P	P	-	P	P	§143-43
2.	Industrial Greenhouse	S	S	S	-	P	S	§143-113
3.	Garden Center	S	P	S		P	S	§143-113
4.	(Reserved)							
5.	Commercial stable in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures	-	S	-	-	-	-	§143-41 & §143-113
6.	Commercial kennel[9]	-	S	-	-	P	P	§143-42 & §143-113
7.	Veterinary hospital	-	S	-	-	P	P	§143-42 & §143-113
8.	Raising and/or keeping of livestock, horses, poultry, sheep, swine or other farm animals for personal use	P	P	P	-	-	P	§143-40 & §143-43 & §143-113
9.	Raising and/or keeping livestock, horses, poultry, sheep, swine, or other farm animals for commercial use, not including the raising of fur animals	S	S	S	-	-	S	§143-41 & §143-43 & §143-113
10.	Accessory uses	P	P	-	-	P	P	§143-18

TABLE OF USES								
USES		**R1**	**R3**	**B1**	**B2**	**C1**	**LO**	**Special Conditions**
RETAIL AND SERVICE								
1.	Retail establishment selling principally convenience goods including, but not limited to: food, pharmaceuticals, and proprietary goods	-	S	P	P	P	-	§143-113
2.	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 including discount and limited price variety stores	-	-	P	P	P	-	
3.	Eating and drinking places not including drive-in establishments	-	-	P	P	P	-	
4.	Drive-in eating establishments	-	-	S	-	P	S	§143-113
5.	Sales by vending machines as a principal use	-	-	S	S	S	-	§143-113
6.	Establishment selling new or new and used automobiles and trucks meeting state inspection standards, automobile accessories, and vehicles capable of being transported over the road	-	-	S	-	P	-	§143-113
7.	Bed & breakfast	S	P	P	P	-	P	§143-113
8.	Funeral establishment	S	S	P	P	-	S	§143-113
9.	Membership club	-	S	S	S	S	S	§143-113
10.	Professional and business offices and services	-	-	P	P	P	P	§143-113
11.	Automobile service station or small engine repair shop not including	-	-	S	-	S	-	§143 -35 & §143-113

TABLE OF USES								
USES		**R1**	**R3**	**B1**	**B2**	**C1**	**LO**	**Special Conditions**
	a junkyard or open storage of abandoned or other vehicles							
12.	Miscellaneous business repair service excluding items identified under #11	-	-	S	S	P	-	§143-113
13.	Motion picture establishment, outdoor	-	-	-	-	P	-	
14.	Motion picture establishment, indoor	-	-	P	P	P	-	
15.	Other amusement and recreation service, outdoor	-	S	S	-	S	S	§143-113
16.	Other amusement and recreation service, indoor	-	-	S	S	P	-	§143-113
17.	Campground		S	-	-	-	-	§143 -34 & §143-113
18.	Communications and television tower[4]	S	S	S	-	S	S	§143-113 & Article VIII-A
19.	Commercial parking lot or commercial parking structure	-	-	S	S	P	-	§143-113
20.	Planned Commercial Development[2]	-	-	S	S	P	P	§143-113 & Article IX
21.	Temporary office or storage trailer	P	P	P	P	P	P	§143-39
22.	Day care, preschool, or kindergarten[7]	P	P	P	P	P	P	§143-38
23.	Minor home business[8] * Must obtain a Certificate of Occupancy from Code Enforcement Officer	P*	P*	P*	P*	P*	P*	§143-28
24.	Major home business[8]	S	S	S	S	S	S	§143-28 & §143-113
25.	(Reserved)							
26.	Accessory uses	P	P	P	P	P	P	§143-18
27.	Hotels and motels[3]	-	-	-	-	P	-	
28.	Junkyards[9]	-	-	-	-	-	-	

TABLE OF USES								
USES		**R1**	**R3**	**B1**	**B2**	**C1**	**LO**	**Special Conditions**
WHOLESALE, TRANSPORTATION, AND INDUSTRIAL								
1.	Removal of sand, gravel, loam, quarry, or other raw material	-	S	S	-	S	S	§143-27 & §143-113
2.	Processing, treating, and storage of raw materials including operations appurtenant to the taking, such as grading, drying, sorting, crushing, grinding, and milling operations	-	S	S	-	S	S	§143-113
3.	Construction industry including suppliers	-	-	S	S	P	-	§143-113
4.	Manufacturing	-	-	S	S	P	-	§143-113
5.	Laundry or dry cleaning plant	-	-	S	-	S	-	§143-113
6.	Motor freight terminal and warehousing	-	-	S	-	P	-	§143-113
7.	Bus passenger terminal	-	-	S	S	P	-	§143-113
8.	Wholesale, trade, and distribution	-	-	S	-	P	S	§143-113
9.	Open storage of finished goods or construction equipment and structure for storing such equipment	-	-	S	S	S	-	§143-113
10.	Research offices or establishments devoted to research and development activities	-	-	S	-	S	S	§143-113
11.	Planned Industrial Development	-	-	-	-	P	S	§143-113 & Article XI
12.	Accessory uses	-	P	P	P	P	P	§143-18

NOTES:
[1] **[Added 3-12-1996 Town Meeting by Amendment No. 2]**
[2] **[Amended 3-10-1998 Town Meeting by Amendment No. 1]**
[3] **[Added 3-10-1998 Town Meeting by Amendment No. 2]**
[4] **[Amended 3-13-1999 Town Meeting by Amendment No. 3]**
[5] **[Amended 3-12-2002 Town Meeting by Amendment No. 3; 3-13-2007 by Amendment No. 3]**
[6] **[Amended 3-9-2004 Town Meeting Amendment by No. 5; 3-13-2007 by Amendment No. 8]**
[7] **[Amended 3-13-2007 Town Meeting by Amendment No. 4]**
[8] **[Amended 3-11-2008 Town Meeting by Amendment No. 1]**
[9] **[Amended 3-11-2008 Town Meeting by Amendment No. 2]**

[10] **[Amended 3-9-2010 Town Meeting by Amendment No. 2]**
[11] **[Amended 3-9-2010 Town Meeting by Amendment No. 2]**
[12] Residential Uses #3 from “S” to”-“ **[Amended 3-12-2013 Town Meeting by Amendment No. 6]**
[13] **[Amended 3-08-2016 Town Meeting by Amendment No. 2]** Remove Crematory as a permitted use in B1 and allowed by Special Exception in LO
[14] **[Amended 3-10-2020 Town Meeting by Amendments No. 2 and 6]**
[15] **[Amended 3-9-2021 Town Meeting by Amendment No. 1]**

ARTICLE V- Dimensional and Density Regulations (§ 143-20 — § 143-23)

§ 143-20 Applicability of dimensional and density regulations.

The regulations for each district pertaining to minimum lot area, minimum lot frontage, minimum lot depth, minimum front yard depth, minimum side yard depth, minimum rear yard depth, maximum height of buildings, and percent minimum pervious space shall be specified in this section and set forth in the Table of Dimensional and Density Regulations, and subject to the further provisions of this chapter. **[Amended 3-10-2015 Town Meeting] Refer to note #7 Table 143-21 for additional information**

§ 143-21 Table of Dimensional and Density Regulations.

[Amended 3-12-1996 Town Meeting by Amendment No. 3; 3-9-2004 Town Meeting by Amendment No. 1; 3-8-2005 Town Meeting by Amendment No. 1; 3-14-2006 Town Meeting by Amendment No. 1; 3-13-2007 Town Meeting by Amendment No. 2; 3-10-2009 Town Meeting by Amendment No. 2]

See Table below and attached notes, which are declared to be a part of this chapter.

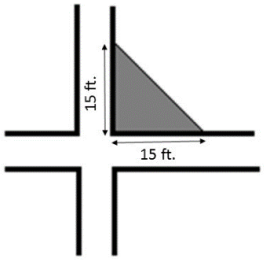
REFERENCE HEADINGS:

A = Minimum Lot Area (square feet)
B = Minimum Contiguous Lot Frontage (feet)
C = Minimum Contiguous Lot Frontage – Duplex (feet)
D = Minimum Contiguous Lot Frontage – Multiple Family (feet)
E = Minimum Lot Depth (feet)
F = Minimum Yard Depth – Front (feet)
G = Minimum Yard Depth – Side (feet)
H = Minimum Yard Depth – Rear (feet)
I = Maximum Height (feet)
J = Percent Minimum Pervious Space (excluding pervious pavement) **[Amended 3-12-2013 Town Meeting Amendment No. 5]**

	DISTRICT / A	B	C	D	E	F	G	H	I	J
B1	ANY PERMITTED USE – TOWN WATER AND SEWER REQUIRED									
	10,000 sf plus 4,000 sf for each dwelling unit more than one (1) per building	80	80	80	80	30	15	40	35	30
B2	ANY PERMITTED USE – TOWN WATER AND SEWER REQUIRED									
	5,000 sf plus 500 sf for each dwelling unit more than one (1) per building (see note #12)	60	80	80	80	20	10	30	35	10
R1	ANY PERMITTED USE WITH TOWN WATER AND SEWER AVAILABLE									
	20,000 sf plus 20,000 sf for second unit and 10,000 sf for each unit more than two per building	120	150	150	120	30	15	40	35	30
R1	ANY PERMITTED USE WITH ONLY TOWN WATER AVAILABLE									
	60,000 sf plus 60,000 sf for second attached unit	150	180	-	120	30	15	40	35	30
R1	ANY PERMITTED USE WITH ONLY TOWN SEWER AVAILABLE									
	40,000 sf plus 40,000 sf for second attached unit	135	165	-	120	30	15	40	35	30
R1	ANY PERMITTED USE WITHOUT TOWN WATER AND SEWER AVAILABLE									
	80,000 sf plus 60,000 sf for second attached unit	200	230	-	120	30	15	40	35	30
R3	ANY PERMITTED USE WITH ONLY TOWN WATER AVAILABLE									
	75,000 sf plus 75,000 sf for each dwelling unit more than one per building	180	210	-	180	55	25	55	35	70
R3	ANY PERMITTED USE WITHOUT TOWN WATER AND SEWER AVAILABLE									
	80,000 sf plus 80,000 sf for each dwelling unit more than one per building	200	230	-	200	60	30	60	35	70
C1	ANY PERMITTED USE									
	Two acres (87,120 sf)	200	n/a	-	200	50	25	40	35	30
LO	ANY PERMITTED USE WITH TOWN WATER AND SEWER AVAILABLE									
	56,000 sf	120	150	150	120	30	15	40	35	30
LO	ANY PERMITTED USE WITH ONLY TOWN WATER AVAILABLE									
	96,000 sf	150	180	-	120	30	15	40	35	30
LO	ANY PERMITTED USE WITH ONLY TOWN SEWER AVAILABLE									
	76,000 sf	135	165	-	120	30	15	40	35	30
LO	ANY PERMITTED USE WITHOUT TOWN WATER AND SEWER AVAILABLE									
	116,000 sf	200	230	-	120	30	15	40	35	30

NOTES

1) (Reserved) **[Removed 3-10-2009 Town Meeting by Amendment No. 2]**
2) The minimum lot width at the front yard setback shall be contiguous and shall not be less than 85% of the minimum lot frontage required for the district.
3) Frontage shall be measured along a Town Class V or better maintained street.
4) On lots abutting streets on more than one side, the front yard requirements shall apply to the yards on each abutting street. All other sides shall comply with the dimensions required for side yards. **[Amended 3-10-2009 Town Meeting by Amendment No. 2]**
5) Within the R1, B1, and B2 Districts only, a dwelling or accessory building need not be set back a distance greater than the average set-backs of dwellings or accessory buildings on the lots adjacent to either side. **[Amended 3-10-2009 Town Meeting by Amendment No. 2]**
6) Minimum lot frontage shall be increased by an additional 10 feet per unit more than two units per building.
7) In the C1 District the existing residential uses shall be subject to the regulations for that particular type of dwelling as defined in the R1 District. In the LO District the existing and new residential uses shall be subject to the regulations for that particular type of dwelling as defined in the R1 District. **[Amended 3-9-2010 Town Meeting by Amendment No. 3]**
8) Except for planned developments for multiple family developments, open space development, planned business or industrial development, community facilities, and public utilities, only one principal structure shall be permitted on a lot. In the case of planned multiple family developments the minimum distance between the walls of such primary buildings which contain windows shall be twice (2) the minimum side yard or side set back required in the District. (The minimum lot area required per each individual dwelling unit, building, or other unit of use shall be regulated by §143-21 to determine the minimum lot area required for the total tract of land. Other area regulations shall apply to the tract as a whole). **[Amended 3-11-2008 Town Meeting by Amendment No. 5]**
9) At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the District in which each street frontage is located.
10) Projections are not permitted into required yards or other required open spaces except steps or stoops.
11) **Removed at Town Meeting 3-12-2013 by Amendment No.9**
12) Within the B2 District the Zoning Board of Adjustment may reduce the minimum lot size and frontage requirements for residential uses by Special Exception.
13) In addition to the required minimum lot size there shall be a minimum contiguous buildable area on each lot which shall equal or exceed seventy percent (70%) of the minimum lot size for that zoning district. [Added 3-10-2009 Town Meeting Amendment No. 2]
14) Any buildings and any septic systems must be sited within the 70% minimum contiguous buildable area but not within any setback or buffer. The Code Enforcement Officer will be responsible for reviewing and accepting new septic system plans prior to the plans being submitted for State approval. The accepted plans shall be stamped and signed by the Code Enforcement Officer. **[Added 3-10-2009 Town Meeting by Amendment No. 2]**
15) The requirement for meeting the recorded Town setbacks will be waived for failed systems on existing lots of record. State required setbacks can be used for failed systems only. **[Added 3-9-2010 Town Meeting by Amendment No. 3]**
16) In the interest of public safety, corner lots shall not permit any structure, fence, or sign to be placed or permit any landscaping to grow in such a manner as to considerably impede sight distance. The Code Enforcement Officer, at his/her discretion, may require that a landowner remove any potential safety hazard which exceeds three (3) feet in height above curb level and is located within a triangular area formed by measuring fifteen (15) feet along the two lot frontages from their point of intersection and connecting the two endpoints.**[Added 3-10-2020 Town Meeting by Amendment No. 5]**



§ 143-22 Accessory buildings.

In "R", "B", "C" and “LO” districts, a detached accessory building shall conform to the following provisions:
[Amended 3-8-2011 Town Meeting by Amendment No. 2]

A. The accessory building shall not occupy more than 25% of the required rear yard;

B. The placement of an accessory building shall not be less than the minimum yard depths for the district as specified in the Table of Dimensional and Density Regulations, § **143-21**, except for column H, minimum yard depth, rear, under the following conditions:

(1) Within the R1, B1, B2, and LO zones the minimum yard depth, rear, may be reduced to 15 feet: and [Amended 3-8-2011 Town Meeting by Amendment No. 2]

(2) If the accessory building is more than 10 feet from any principal building, then the rear setbacks shall be 30 feet in the R3 district, and 40 feet in the C1 district.

C. The accessory building shall not exceed 35 feet in height.

An accessory building attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side and rear yard requirements applicable to the principal building.

§ 143-23 Back-lot access.

Subject to the approval of the Planning Board, any lot may be laid out by plan that has minimum frontage equal to or greater than the maximum required right-of-way width for a town road according to the subdivision regulations in effect at the time.

ARTICLE VI- Special Conditions (§ 143-24 — § 143-44.1)

§ 143-24 Special conditions.

In addition to the general conditions set forth in § **143-113** of this chapter for all special exceptions, the following special conditions shall apply to those uses listed as permitted by right or by special exception in the special condition column of the Table of Use Regulations.

§ 143-25 (Reserved)

Editor's Note: Former § 143-25, Licensing, was repealed 3-13-2007 by Amendment No. 5.

§ 143-26 Temporary licensing.

A. Unless the owner of record holds a valid temporary license issued by the Selectmen, it shall be unlawful for any person to operate or occupy the following uses:

(1) Recreational vehicle, except as provided by § **143-31**; or

(2) Office trailer or storage trailer.

B. License fees shall be established by the Selectmen. The basis of fees are as follows:

(1) Recreational vehicle. Unit fee per vehicle.

(2) Office trailer or storage trailer. Unit fee per trailer.

§ 143-27 Earth excavation.

A. General: This section is enacted pursuant to the authority granted to the Town of Pembroke to regulate earth excavation activities within its boundaries under the provisions of RSA 155-E inclusive, as amended.

B. Regulator: The Planning Board for the Town of Pembroke is hereby designated the Regulator as provided in RSA 155-E:I III, as amended, and shall have all the powers and duties granted thereto by RSA 155-E: inclusive.

C. Regulations: Pursuant to the responsibility as the regulator and in accordance with the provisions of RSA 155-E:11, as amended, the Planning Board has adopted a set of regulations and will from time to time amend

said regulations governing earth excavation activities within the Town of Pembroke. The intent of the regulations being to ensure that said activities are conducted in a safe manner in accordance with sound environmental practices and to further provide proper assurances that suitable reclamation of the affected areas is obtained.

§ 143-28 Minor Home Business

[Amended 3-11-2008 Town Meeting by Amendment No. 1]

The purpose of this section is to permit the accessory use of a residence for business purposes which are clearly incidental to the principal residential use provided the use does not change the residential character or function of the property to the extent that the property would be distinguishable from other residential properties. Any use shall be subject to the following conditions:

A. The principal work of the Minor Home Business may be performed on or off premise;

B. The Minor Home Business shall be owned and carried on principally by the permanent resident(s). No nonresidents shall be employed on the premises;

C. The Minor Home Business will not change the external residential character of the dwelling or require significant external alterations to the structure;

D. There shall be no outside storage of goods or wares of any kind which are related to the Minor Home Business;

E. Vehicle visitation to the premises in conjunction with the Minor Home Business by customers, vendors, solicitors or commercial deliveries shall not exceed 5 round trips per day;

F. The Minor Home Business shall be conducted in such a manner that the premises is indistinguishable from other residences in the neighborhood and shall not create any noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard or nuisance to any greater or more frequent extent than that usually experienced in a residential dwelling;

G. There shall be no advertising on the premises other than as provided under § **143-62**, Dimensional Table of Signs, and § **143-63** (A);

H. No more than one commercial vehicle used in the business shall be stored, parked or otherwise situated on the premises.

I. The Minor Home Business must be in compliance with §143-18 Accessory buildings and uses;

J. Nontransferability: Minor Home Business approvals are not transferable. They are issued for a specific home business on a specific site and may not be transferred to a different business on the same site or to a business on a different site;

K. Certificate of Occupancy. Prior to the operation of any Minor Home Business, a certificate of Occupancy must be obtained from the Code Enforcement Officer;

L. A Change or Expansion of a Minor Home Business Use requires a new Certificate of Occupancy from the Code Enforcement Officer; and

M. Revocation. A Certificate of Occupancy for a Minor Home Business may be revoked by the Code Enforcement Officer after notice and due process for violation of any of the provisions of this chapter or any conditions of approval. Appeals of any such revocation shall be made to the Zoning Board of Adjustments.

§ 143-29 Major Home Business.

[Amended 3-11-2008 Town Meeting by Amendment No. 1]

The purpose of this section is to permit the accessory use of a residence for business purposes which are clearly incidental to the principal residential use provided the use does not significantly change the residential character or function of the property. A Major Home Business is permitted by Special Exception only from the Zoning Board of Adjustment. The following conditions must be met in addition to the conditions set forth in § 143-113 before a special exception can be granted. In granting a special exception the Zoning Board of Adjustment may attach any reasonable conditions to the approval to insure the protection of the residential character of the neighborhood:

A. The Major Home Business shall be owned and carried on principally by the permanent resident(s), with no more than one non-resident employee;

B. The Major Home Business use shall be carried on strictly within a building;

C. The outside display of goods or wares associated with the Major Home Business must be screened from abutting properties and the road;

D. The buildings or premises occupied shall not adversely impact the residential character of a neighborhood because of the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way;

E. No more than two commercial vehicles used in connection with the Major Home Business shall be stored on the premises;

F. The Major Home Business must be in compliance with §143-18 Accessory buildings and uses;

G. There shall be no advertising on the premises other than as provided under § **143-62**, Dimensional Table of Signs, and § **143-63** (C);

H. Vehicle visitations to the premises in conjunction with the Major Home Business by customers, vendors, solicitors or commercial deliveries shall not exceed 15 round trips per day;

I. Minor site plan approval from the Planning Board is required for a Major Home Business.

J. An acceptable off road Parking Plan for employees and customers must be provided;

K. Major Home Businesses are not allowed in duplexes or multi-family dwellings;

L. Nontransferability; Home business approvals are not transferrable. They are issued for a specific home business on a specific site and may not be transferred to a different business on the same site or to a business on a different site.

M. Certificate of Occupancy. Prior to the Operation of any home business, a Certificate of Occupancy must be obtained from the Code Enforcement Officer; and

N. Revocation. A Certificate of Occupancy for a Major Home Business may be revoked by the Code Enforcement Officer after notice and due process for violation of any of the provisions of this chapter or any conditions of approval. Appeals of any such revocation shall be made to the Zoning Board of Adjustment.

§ 143-30 Technical Review Committee.

The Town of Pembroke adopted the provisions of RSA 674:43.III to authorize the Planning Board to delegate its site plan review powers and duties in regard to minor site plans to the Town of Pembroke Technical Review Committee that will consist of personnel chosen by the Planning Board which may include the Department Heads within the Town of Pembroke, a Member of the Planning Board, the Town Planner, and other Town Officials as appropriate. This special site plan review committee, to be known as the Minor Site Plan Technical Review Committee, may have final authority to approve or disapprove site plans reviewed by it. Aggrieved parties may appeal the decisions of the technical review committee to the Planning Board so long as notice of appeal is filed within twenty (20) days of the technical review committee's decision. All provisions of RSA 676:4 shall apply to actions of the technical review committee, except that such a committee shall act to approve or disapprove within sixty (60) days after submissions of applications, subject to extension or waiver as provided in RSA 676:4.I (f). With the adoption of this Article, the Planning Board shall be authorized to amend the Pembroke Site Plan Regulations specifying application, acceptance and approval procedures and defining what location, size and kind of site plans may be reviewed by the technical review committee prior to authorizing the committee. **[Home Business deleted 3-11-2008 Town Meeting by Amendment No. 1.[Term Home Business removed and replaced with "Reserved" 3-12-2013 Town Meeting Amendment No. 1] ["Reserved" replaced with "Technical Review Committee" on 3-10-2015 Town Meeting Amendment No. 4]**

§ 143-30.1 Office conversions.

[Added 3-14-2000 Town Meeting by Amendment No. 2]

A. Purpose: The purpose of this section is to permit the conversion of existing residential units into non-residential professional and business office space. The intent of this district is to allow for professional/business office space to be located in formerly residential units. It will enable existing buildings to be adapted to new uses and to allow a more flexible pattern of residential and business development. The business use shall not significantly change the residential character or function of the property to the extent that the use will be objectionable to other residential uses in the neighborhood.

B. District boundaries: The boundaries of the district shall be measured to a depth of five hundred (500) feet either side of the center line of Pembroke Street beginning at the boundary of the L/O District and running to the boundary of the B1 district.

C. Uses: The following uses are permitted by special exception within the district:

    (1) Offices for professional businesses and services.

(2) Mixed residential and office units are permitted within a single building.

D. Specifically, the following special conditions must be met to the satisfaction of the Zoning Board of Adjustment as well as the conditions set forth in § **143-113** before a special exception can be granted. In granting a special exception, the Zoning Board of Adjustment may attach any reasonable conditions to the approval to insure the protection of the residential character of the neighborhood:

(1) The use shall be carried on strictly within the principal building on the property;

(2) There shall be no display of goods or wares visible from the street;

(3) The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of the exterior appearance, emission of odor, gas, smoke, dust, noise, electrical disturbance or in any other way. In a multi-family dwelling, the use shall in no way become objectionable or detrimental to any residential use within the multi-family structure. It shall include no feature of design not customary in buildings for residential use;

(4) All parking areas shall be effectively screened from abutting and facing residential properties by either a solid fence a minimum of four (4) feet in height or a dense planting of evergreen materials that are a minimum of three (3) feet in height at the time of planting;

(5) There shall be no advertising on the premises other than as provided under § 143-62, Dimensional Table of Signs. [Amended 3-13-2018 Town meeting]

(6) Any exterior renovations must comply with § 143-67, Architectural Design District;

E. Any conversion of residential into office space requires site plan review by the Planning Board.

F. Once converted into office space, any conversion back to residential units must comply with current zoning requirements.

§ 143-31 Recreational vehicle.

For the temporary occupancy of a recreational vehicle outside of a licensed campground, the following regulations shall apply:

A. It shall be unlawful for any person to occupy a recreational vehicle on a temporary basis, who does not possess a permit from the Code Enforcement Officer. A permit is not required for the storing or parking of a recreational vehicle during periods of nonuse on the premises of the owner, or for a period of occupancy not to exceed 60 days per year; **[Amended on 3-11-14 by Amendment No. 1]**

B. A property owner or lessee may accommodate one recreational vehicle of a nonpaying guest for a period not in excess of 60 days in any one year; and

C. A recreational vehicle may be maintained as living quarters by a person employed in adjoining construction work or for whom a residence is being built, or as an office, storeroom or shop in connection with construction work, provided, that such is shown to be a temporary expedient, conforms to the provisions of § **143-21**, and also that the use will conform with the U.S. Department of Health, Education, and Welfare Publication manual of septic tank practice.

D. Occupants of a recreational vehicle outside of a licensed campground must comply with applicable state health and sanitary disposal regulations, including but not limited to Title X, Public Health, Chapter 147 for the State of New Hampshire, as amended. **[Added 3-08-2016 Town Meeting by Amendment No. 3]**

143-32 Manufactured Housing Parks.

For Manufactured Housing Parks where the intended purpose is to rent or lease space for the placement of manufactured housing the following shall apply:

A. A site plan of the proposed development shall be prepared and approved by the Pembroke Planning Board. In addition to the information required in the site plan regulations, the plan shall show the location of the lease/rental lines and the pad sites; **[Amended 3-13-2007 Town Meeting by Amendment No. 6]**

B. A Manufactured Housing Park must consist, at a minimum, of at least three home sites and must situate the homes so that they have frontage along the park roadways; **[Amended 3-13-2007 Town Meeting by Amendment No. 6]**

C. The minimum lease/rental lot size, side, rear and front setback shall be 80% of the minimum lot area required under Column A, F, G, and H of § **143-21**;

D. Any proposed site shall have frontage on a park roadway of at least 80% of the applicable lot frontage from Column B of § **143-21**;

E. Minimum depth of site shall be 155 feet from centerline of park roadway;

F. At least 20% of the total tract area (of which at least 50% shall be free of wetland and free of land with 15% or greater land slopes) shall be set aside as common land;

G. Such common land shall be restricted to open space recreational uses such as totland park, playground, playfield, golf course, or conservation area and have suitable access to a street;

H. Such common land shall be permanently covenanted as required under the Town of Pembroke Site Plan Regulations; *Editor's Note: See Ch. **203**, Site Plan Review.*

I. Each site shall be limited to a one-family detached manufactured house;

J. Park roadways shall be built to a minimum of Class C (local road) standards; (See Subdivision Regulations) *Editor's Note: See Ch. **205**, Subdivision of Land.*

K. (Reserved)
Editor's Note: Former Subsection K, which provided for licensing requirements, was repealed 3-13-2007 by Amendment No. 5.

L. The Selectmen or their agent, Health Officer, and Fire Inspector shall inspect each manufactured housing park from time to time, at reasonable hours.

143-33 Manufactured Housing Subdivision.

For Manufactured Housing Subdivisions where the intended purpose is to sell lots for the placement of manufactured housing, the following shall apply:

A. A subdivision plan of the proposed development shall be prepared and approved by the Pembroke Planning Board;

B. The parcel of land shall be at least 10 times the minimum lot size for the zone as determined from § **143-21**;

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**;

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**;

E. At least 20% of the total tract area (of which at least 50% shall be free of wetland and free of land with 15% or greater land slopes) shall be set aside as common land;

F. Such common land shall be restricted to open space recreational uses such as totland park, playground, playfield, golf course, or conservation area and have suitable access to a street;

G. Such common land shall be permanently covenanted as required under the Town of Pembroke Subdivision Regulations; *Editor's Note: See Ch. **205**, Subdivision of Land.*

H. Each site shall be limited to a one-family detached manufactured home; and

I. Subdivision roadways shall be built to a minimum of Class C (local road) standards. (See Subdivision Regulations) *Editor's Note: See Ch. **205**, Subdivision of Land.*

§ 143-34 Campgrounds.

For the establishment of campgrounds the following special conditions shall apply:

A. (Reserved)
Editor's Note: Former Subsection A, which required compliance with licensing requirements, was repealed 3-13-2007 by Amendment No. 5.

B. General conditions and space requirements:

(1) A site plan of the proposed development shall be prepared and approved by the Pembroke Planning Board. In addition to the information required in the site plan regulations the plan shall show the location of the campsites, the pads on the site, and the location of any accessory structures;

(2) Minimum lot size for a campground shall be 10 acres;

(3) Campgrounds and campsites shall be located so as to protect the health and safety of the occupants. Such matters as drainage, smoke, noise, and the probability of flooding or erosion should be considered;

(4) The maximum number of campsites shall not exceed 10 campsites per each acre of the campground tract;

(5) Not more than one tent, or recreational vehicle (camping unit) shall be placed upon a campsite;

(6) No campsite shall be situated closer than 150 feet to any adjoining property;

(7) Each campsite in the campground shall be a minimum of 1,500 square feet in size, and shall contain a parking space, a campsite area, and a designated area for a campfire. The campfire area shall be reviewed and approved by the Fire Inspector for the Town of Pembroke;

(8) Each campsite shall have a frontage and depth requirement of not less than 30 feet;

(9) Each camping unit shall be located no closer than 10 feet from any building or 15 feet from an adjacent camping unit; Editor's Note: Former Subsection B(10), which required posting of a license and former Subsection B(11), which required inspections, both of which immediately followed this subsection, were repealed 3-13-2007 by Amendment No. 5.

C. Roads: The major road(s) in a campground shall have a minimum roadway surface width of 16 feet. They shall conform to accepted practices of good design (free movement of emergency vehicles), shall be well drained, and shall be semi-paved (crushed gravel, etc.);

D. Water supply: An adequate supply of safe potable water, preferably under pressure, shall be provided which meets the New Hampshire Department of Environmental Services, Water Supply and Pollution Control Division (WSPCC) regulations (regulation Env-Ws 372), as amended, and approved by the Health Officer;

E. Sewage and waste disposal: Each campground shall be provided with toilets, baths, or showers, slop sinks, dump stations and other sanitation facilities which shall conform to the New Hampshire Department of Environmental Services WSPCC regulations relating to sanitation facilities

(regulation Env-Ws 1000 and 1005.13 Recreational Campgrounds), as amended, and approved by the Health Officer;

F. Garbage and refuse disposal: It shall be the responsibility and duty of the owner or manager of the campground to see that all garbage and refuse is disposed of regularly and in a sanitary manner approved by the Health Officer;

G. Lighting: Every campground shall be provided with adequate lighting facilities and shall be kept lighted in accordance with a timetable for lighting and extinguishing approved by the Police Chief; and

H. Records: The owner or manager of every campground shall keep a record of all campground users and their guests, noting the name and address of each site occupant, the license number of each automobile and of each mobile unit, the state issuing such licenses, the dates of arrival and departure. This register shall be available at all times for inspection by representatives of the police and health department.

§ 143-35 Automotive Repair and Service.

For the location of an automotive repair and service establishment, the following special conditions shall apply:

A. No portion of the front or side lines of an automotive repair shop or service station or any part of their appurtenances or accessory uses, shall hereafter be placed within 50 feet of any residence district; **[Amended 3-13-2007 Town Meeting by Amendment No. 11]**

B. No driveway to such premises shall be in any part within 50 feet of any residential district;

C. No such premises shall have any driveway entrance or exit for motor vehicles within 300 feet of the property used by a public or private school, public library, church, play-ground, or institution for the sick or dependent or for children under 16 years of age; and

D. Every filling station shall hereafter be located not less than 15 feet inside the building line and no filling shall be done except into vehicles standing on the property of the filling station.

§ 143-35.1 (Reserved)

[Added 3-08-2011 Town Meeting by Amendment No. 6]

[Entire Section "Private Sales and Outdoor Display" removed and replaced with "Reserved" 3-11-2014 Town Meeting by Amendment No. 13]

§ 143-36 Community facilities.

For country clubs, golf, swimming, tennis, yacht, skiing, and similar recreational facilities the following special conditions shall apply:

A. Golf tees and greens shall not be located within 300 feet of any existing residence nor within 100 feet of a public right-of-way;

B. Public ski areas shall not be located within 100 feet of any existing residence or public right-of-way;

C. The location of all tees, greens, fairways, tennis courts, ski slopes, docks, and similar facilities shall be located and designed for the protection of the surrounding property owners; and

D. The golf course, ski slope, dock area, and similar recreational areas shall be maintained in good condition at all times.

§ 143-37 Nonprofit day camp or other nonprofit camp.

For nonprofit day camp or other nonprofit camps the following special conditions shall apply:

A. Nonprofit day camp or other nonprofit camp shall be sponsored by a nonprofit organization such as a church, fraternal organization, veterans, or like organization; and

B. The sponsoring organization shall be responsible for providing adequate supervision and facilities for the operation of the camp and to ensure the safety of each enrolled person. Section **143-34**, subsections D, E, F & G of this chapter shall also apply.

§ 143-38 Day care, preschool, or kindergarten.

[Amended 3-13-2007 Town Meeting by Amendment No. 4]

For the establishment and operation of a day care, preschool, or kindergarten, the following special conditions shall apply:

A. (Reserved)

B. (Reserved)

C. All outside play areas shall be effectively screened from abutting and facing residential properties by either a solid fence a minimum of four feet in height or a dense planting of evergreen materials that are a minimum of three feet in height at the time of planting;

D. (Reserved)

E. Site Plan Review is required from the Planning Board;

F. Day care, Preschool, or kindergartens, which are accessory to a residential use shall not require Site Plan Review but shall comply with all other requirements as well as the following provisions:

(1) The use shall be carried on principally by the permanent resident(s), with no more than two non-resident employees;

(2) No more than 40% of the lot or principal structure shall be occupied, or used by the Day Care, Preschool, or kindergarten.

(3) Those provisions listed in § **143-18**.

(4) Accessory Uses shall require a Special Exception from the ZBA.

(5) Meet the provisions for outside play areas listed above.

§ 143-39 Temporary office trailer or storage trailer.

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

For the temporary use of an office or storage trailer the following special conditions shall apply:

A. The office trailer, storage trailer, or storage pod shall require a permit issued by the Code Enforcement Officer if the duration is less than 12 months;

B. The fees associated with this permit shall be established by the Selectmen. The basis is one unit fee per office trailer, storage trailer, or storage pod;

C. If the total length of time is greater than 12 months, the office trailer, storage trailer, or storage pod shall require a special use permit from the Pembroke Planning Board;

D. Considering this application, some of the items the Planning Board might discuss with the applicant are:

1. Proposed length of stay;
2. Why an alternate location cannot be used;
3. What item(s) will be stored; and
4. What is the expected removal date; **[Amended 3-11-2014 Town Meeting by Amendment No. 3]**

E. The office trailer, storage trailer, or storage pod shall adhere to all setback requirements of the district it is to reside in; and

F. The office trailer, storage trailer, or storage pod shall not remain on the site once the project has been completed; approvals expired, or after approval for the project has been revoked by the Planning Board.

§ 143-40 Private, non-commercial stables.

For private, non-commercial stables the following special conditions shall apply:

A. No private, non-commercial stable or other enclosure shall be located closer than 50 feet from front, rear, and side lot lines; and

B. All agricultural and livestock activities shall be performed according to the manual of Best Management Practices for Agriculture in New Hampshire developed by the New Hampshire Department of Agriculture, as amended.

§ 143-41 Commercial stables.

For commercial stables the following special conditions shall apply:

A. The minimum lot size for a commercial stable shall be 10 acres;

B. No commercial stable or other enclosure shall be located closer than 50 feet from the front, rear, and side lot lines; and

C. All agricultural and livestock activities shall be performed according to the Manual of Best Management Practices for Agriculture in New Hampshire developed by the New Hampshire Department of Agriculture, as amended.

§ 143-42 Commercial kennels.

For commercial kennels the following special conditions shall apply:

A. (Reserved)
Editor's Note: Former Subsection A, which required compliance with licensing requirements, was repealed 3-13-2007 by Amendment No. 5.

B. A commercial kennel shall not be considered a home business. **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

C. A new commercial kennel shall be required to undergo site plan review process; **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

D. No outdoor commercial kennel shall be located less than 400’ from the front lot line and 200’ from the rear and side lot lines; **[Amended 3-11-2008 Town Meeting by Amendment No. 2]**

E. No indoor commercial kennel shall be located less than 100’ from the front lot line and 50’ from the rear and side lot lines; **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

F. One 12 square foot free standing sign shall be permitted in accordance with 143-62 Dimensional Table of Signs, or with dimensions compliant with 143-62, Dimensional Table of Signs, whichever is more restrictive;**[Added 3-11-2008 Town Meeting by Amendment No. 2]**

G. Animal waste must be managed in accordance with established best management practices; **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

H. A maximum of 15 adult dogs shall be permitted in a commercial kennel at one time; **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

I. Commercial kennels are restricted to a 7:00 AM to 7:00PM outside run; and **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

J. Adequate vegetated screening is required in the form of shrubs, landscaping, or berms for indoor and outdoor kennels. Screening shall be provided along

the front and side lot lines for noise reduction. **[Added 3-11-2008 Town Meeting by Amendment No. 2]**

§ 143-43 Agricultural uses.

For agricultural uses the following special conditions shall apply:

A. All agricultural and livestock activities shall be performed according to the Manual of Best Management Practices for Agriculture in New Hampshire developed by the New Hampshire Department of Agriculture, as amended;

B. All livestock shall be kept within an enclosure or structure and not permitted to roam free;

C. The keeping of agricultural livestock shall be in accordance with "Guidelines for Space and Housing of Farm Animals" per University of New Hampshire Cooperative Extension guidelines, 01/99 as amended. **[Amended 3-12-2002 Town Meeting by Amendment No. 4]**

Editor's Note: This amendment also repealed former Subsection D, which immediately followed this section and provided for parcels for the keeping of sheep or other farm animals.

§ 143-44 Agricultural retail outlets.

For the establishment and operation of an agricultural retail outlet the following special conditions shall apply:

A. Cut or pick-your-own outlets:

(1) Cut or pick-your-own outlets shall not be subject to the requirement for site plan review by the Planning Board;

(2) An area suitable for the off-street parking of vehicles shall be provided; and

(3) Side street parking is allowable if sales occur during a period of one season or less.

B. Farm Stand: (Roadside stand)
[Amended 3-13-2007 Town Meeting by Amendment No.3]

(1) Farm stands that operate more than six months out of the year shall be subject to receiving a Special Use Permit by the Planning Board. **[Amended 3-11-2014 Town Meeting by Amendment No. 9]**

(2) Off street parking shall be provided in accordance with § **143-46**;

(3) Farm stands shall be set back a minimum of 15 feet from abutting right-of-way lines, and conform to the side yard requirements of the district in which the farm stand is located;

(4) (Reserved)

(5) Products for sale at the farm stand shall be locally grown and over 35% shall be grown on the site or grown on other land of the owner of the farm stand; and

(6) Outdoor displays of produce, plants, gardening supplies, etc. may be provided on the site, but storage of equipment, produce containers, waste produce and the like shall be enclosed or otherwise screened from view.

C. Farmer's market:

(1) Farmer's markets shall be considered minor site plans and subject to the requirements for site plan review by the Planning Board;

(2) Off street parking shall be provided in accordance with § **143-46**;

(3) The building(s) for the farm market shall conform to the setback requirements of the district in which it is in; and

(4) Outdoor display of produce, plants, gardening supplies, etc. may be provided on the site, but storage of equipment, produce containers, waste produce and the like shall be enclosed or otherwise screened from view.

§ 143-44.1 Adult entertainment uses.

[Added 3-14-2000 Town Meeting by Amendment No. 3]

A. Statement of findings.

(1) WHEREAS, the Town of Pembroke has considered the following reports and studies concerning the adverse secondary effects of adult entertainment uses on communities:

(a) Adult Entertainment Businesses in Indianapolis (1984).

(b) Seattle Department of Construction and Land Use: Director's Report-Proposed Land Use Code Text Amendment-Adult Cabarets (1989).

(c) Report on Adult Oriented Businesses in Austin (1986).

(d) Adult Entertainment Businesses in Oklahoma City-A Survey of Real Estate Appraisers (1986).

(e) An Analysis of the Relationship Between Adult Entertainment Establishments, Crime, and Housing Values (1980).

(2) WHEREAS, after evaluating said reports, the Town of Pembroke finds that the location of adult entertainment uses in Town would tend to create harmful secondary effects such as an increase in sex related crimes, a decrease in property values, and general economic decline;

(3) WHEREAS, the Town deems it necessary to protect the public health, safety and welfare to control the location and concentration of such uses and therefore enacts the following section:

B. Statement of purpose.

(1) There is considerable local and national concern with many of the effects of adult uses, including their detrimental influence on children, increased criminal activity associated with these uses, contribution to blight, decline in public health and the disruptive effects that adult uses have on adjacent residential and commercial neighborhoods.

(2) These effects are significantly increased and intensified when adult uses are so concentrated as to transform the character of a given area into an adult use district which draws people from outside Town to this form of entertainment.

(3) It is deemed necessary to protect the public health, safety and welfare (including but not limited to protection of property values, separation of incompatible land uses, location of such uses near major regional highways, and prevention of blight and crime) to control the location and concentration of such uses. This Chapter restricts the locations of adult uses to nonresidential areas and prohibits their location in close proximity to one another or to facilities primarily devoted to use by children and families, thereby limiting the absolute number of adult uses in Town and, in addition, effectively preventing the concentration of such uses.

(4) It is not the intent nor the effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or

to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.

C. Adult entertainment uses.

(1) Live adult entertainment uses and passive adult entertainment uses shall be permitted in the portion of the C1 District that is located near Ricker Road. Passive adult entertainment uses shall not be permitted within the Route 106 portion of C1 District. Live adult entertainment uses are not permitted within the Route 106 portion of the C1 District. Within these districts, no person shall cause or permit the establishment of any defined adult entertainment use within 500 feet of any church, public or private school or college, park, library, playground, or area zoned for residential use, or within 1,000 feet of another adult use. No adult entertainment use shall be located in any other District in the Town of Pembroke.

(2) The measure of distance between any two adult entertainment uses or an adult entertainment use and another use shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall or temporary or permanent divider of the adult entertainment use to the closest exterior wall or temporary or permanent divider of the other land use. In the case of establishing the measure of distance between an adult entertainment use and a residential zoning district, the distance shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall or temporary or permanent divider of the adult entertainment use to the nearest border of a residential zoning district.

(3) The establishment of an adult entertainment use shall include the opening of such business as a new business, the relocation of such business, the conversion of an existing business location to any adult use, or the granting of permits required of masseurs and masseuses which would have the effect of the establishment of an adult use or the intensification of an existing adult use.

D. Performance requirements. Specified sexual activities or specified anatomical areas, including instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities or their images, shall not be visible in any fashion whatsoever from the exterior of the structure(s) within which the adult entertainment use is located.

ARTICLE VII – Parking, Landscaping, and Fences (§ 143-45 — § 143-56)

§ 143-45 Off-Street parking requirements.

In any district, if any structure is constructed, or enlarged or if any use of land is established, or changed, off-street parking spaces shall be provided in accordance with the minimum parking requirements in § **143-46**.

§ 143-45.1 Parking requirement modifications.

[Added 3-13-2001 Town Meeting by Amendment No. 1]

As authorized under RSA 674:21 (h) (Innovative Land Use Controls) as amended, the Planning Board may modify the parking requirements as stated in this section in accordance with the following standards.

A. General. Where the Planning Board finds that a) practical difficulties may result from strict compliance with these regulations, b) an alternative proposal is appropriate for the circumstances and use of the property, c) the purposes of this section may be served to a greater extent by the alternative proposal, and d) good cause is shown, it may approve waivers to these regulations so that substantial justice may be done and the public interests secured, provided that such waiver shall not have the effect of nullifying the intent and purpose of these regulations.

B. Conditions. In approving waivers, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

C. Procedures. A petition for any such waiver shall be submitted in writing by the applicant at the time when an application is filed for the consideration of the Planning Board. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the petitioner.

§ 143-46 Table of Off-Street Parking Requirements.

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
RESIDENTIAL		
1.	One and two-family dwelling:	Two spaces for each dwelling unit

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
2.	Multifamily dwelling:	Two spaces for each dwelling unit
3.	Manufactured housing:	Two spaces for each dwelling unit
4.	Elderly housing:	One space for each dwelling unit

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
COMMERCIAL		
5.	General offices:	One space per 300 square feet of gross floor area
6.	Medical offices:	One space per 200 square feet of gross floor area
7.	Farm stands:	One space per 300 square feet of gross floor area
8.	Automotive retail and service establishment, farmers markets, and other retail and service establishments, utilizing extensive display areas, either indoor or outdoor which are usually extensive in relation to customer traffic:	One space per 1,000 square feet of gross floor area. In the case of outdoor display areas, in addition to the above, there shall be one space for each 1,000 square feet of lot area in such use
9.	Other retail, service, finance, insurance or real estate establishment:	One space per each 300 square feet of gross floor area
10.	Restaurant:	One space for each four seats of total seating capacity

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
11.	Bed and Breakfast:	One and one half spaces per sleeping room
12.	Auto and truck service station:	Three spaces per service bay
13.	Hotels/motels **[Added 3-10-1998 Town Meeting by Amendment No. 3]** *Editor's Note: This amendment also provided for the renumbering of former items 13 through 22 as 14 through 23, respectively.*	One space for each sleeping room, square feet of public meeting room. The Planning Board may require more spaces if large function areas are proposed plus one space for each 400

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
COMMUNITY FACILITIES		
14.	Theater, auditorium, church, or similar place of public assembly with seating facilities:	One space for each four seats of total seating capacity
15.	Hospital:	One and one half spaces per bed at design capacity
16.	Nursing Home:	One half space per bed at design capacity
17.	Business, trade, or industrial school or college:	One space for each 200 square feet of gross floor area in classrooms
18.	Other school:	Two spaces per classroom in an elementary and junior high school: four spaces per classroom in a senior high school plus space for auditorium or gymnasium, whichever has the larger capacity

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
19.	Community Facility: recreation, etc.)	One space per each 400 square feet of gross floor area
20.	Public utility:	One for each 400 square feet of gross floor area devoted to office use One for each 800 square feet of gross floor area per other use

TABLE OF OFF-STREET PARKING REQUIREMENTS		
USES: PARKING		**NUMBER OF SPACES**
INDUSTRIAL		
21.	Wholesale establishment, establishment:	One space per each 1,000 square feet of gross floor area
22.	Manufacturing or industrial establishment:	One space per each 600 square feet of gross floor area
23.	Transportation terminal establishment:	One space for each 600 square feet of gross floor area

NOTES	
1)	Where one building or site is used for more than one use, parking requirements shall be computed for each use as if it were a principal use, except as provided for under Article **XI**.
2)	Where the computation of parking spaces results in a fractional number, the fraction shall be counted as one parking space.
3)	For any use other than one specifically mentioned in § **143-46**, the parking requirements shall be as for the closest similar use as determined by the Code Enforcement Officer.
4)	In addition to the parking requirements specifically mentioned in Table 143-46 additional spaces may be required by the Planning Board for visitor, employee, staff parking, and any other parking depending on the type of

NOTES	
5)	The Code Enforcement Officer shall assess the need for parking in addition to what is specified in Table 143-46 and make any recommendations to the Planning Board **[Added 3-13-2018 Town Meeting]**

§ 143-47 Location of parking spaces.

Required off-street parking spaces shall be provided on the same lot as the principal use they are required to serve, except as provided under § **143-48**; or, when practical difficulties, as determined by the Board, prevent their establishment upon the same lot, they may be established by special exception no further than 300 feet from the premises to which they are adjacent to.

§ 143-48 Location of parking spaces within the B2 District.

[Amended 3-14-2000 Town Meeting by Amendment No. 1]

Within the B2 District the Planning Board may reduce or eliminate the required on-site parking provided that the applicant prove one of the following:

A. Adequate public parking is available within 500 feet of the property;

B. The provision of parking is available from adjacent property owners through a lease agreement subject to the following: or

   (1) Planning Board approval of the lease agreement; and

   (2) If off-site parking becomes unavailable the property owner shall be responsible for obtaining replacement parking, or the use shall not be permitted to continue.

C. The parking requirements are in excess of what is required for that use.

§ 143-49 General parking area requirements.

All parking areas, other than one and two family dwellings, shall conform to the following general requirements:

A. Each required car space shall be not less than nine feet in width and 19 feet in length, except as provided for under § **143-51**;

B. Each required parking lot aisle or circulation area shall not be less than 22 feet in width;

C. Parking spaces shall be so arranged as not to necessitate backing of automobiles onto any street;

D. The minimum setback from all property lines and buildings shall be five feet; and

E. There shall not be any storage of materials, equipment or display of merchandise within the required parking area except as part of approved building operations.

§ 143-50 Special parking area requirements.

All parking areas containing over eight spaces including automotive and drive-in establishments of all types shall be subject to the following special requirements:

A. The parking areas and access driveways shall be surfaced with bituminous, cement concrete, or similar material, except for agricultural retail outlets as provided for in § **143-44**, and shall be graded and drained so as to dispose of all surface water accumulation;

B. A substantial bumper of masonry, steel or heavy timber, or a concrete curb or berm curb which is backed shall be placed at the edge of surfaced areas except driveways in order to protect abutting structures, properties and sidewalks; and

C. Landscaping within and around the parking area and building shall be required.

§ 143-51 Compact cars.

For parking lots containing 50 or more parking spaces, up to 25% of the spaces may be designated for use by compact cars. The compact car parking spaces shall conform to the following standards:

A. The parking area shall conform to the standards in § **143-49** (B) thru (E) and § **143-50**;

B. Compact car spaces shall be a minimum of 7.5 feet in width and 15 feet in length;

C. Compact car spaces shall be laid out in a group and appropriately identified as intended for exclusive use by compact cars; and

D. The area difference between the use of compact car spaces and regular spaces shall not be used in the calculation of the required open space of a parcel.

§ 143-52 Handicap parking.

The provision of, number, design, and location of handicap parking shall conform to the provisions of the Americans with Disabilities Act, as amended, and other pertinent rules and regulations regarding handicapped parking.

§ 143-53 Driveways.

All driveways shall conform to the provisions of the Town of Pembroke Driveway Regulations. Editor's Note: See Ch. ***198***, Driveways. Shared driveways are not permitted.
[Amended 3-9-2021 Town Meeting by Amendment No. 2]

§ 143-54 Screening and buffers - Limited Office District.

A. A buffer of a minimum height of six feet shall be erected and maintained to screen between non-residential uses and existing residential uses. Buffers, at the discretion of the Planning Board, may be fence screens, dense plantings of suitable evergreen trees and shrubbery, naturally occurring shrubs and trees or any combination thereof.

§ 143-55 Screening and buffers - Commercial District.

Screening and buffers shall be required for all non-residential uses in the commercial district when it adjoins a residential district as follows:

A. This strip shall be at least 25 feet in width, it shall contain a screen of plantings in the center of the strip shall contain not less than three feet in width and six feet in height at the time of occupancy of such lot;

B. Individual shrubs or trees shall be planted not more than three feet on center, and shall thereafter be maintained by the owner or occupants so as to maintain a dense screen year round; and

C. At least 50% of the plantings shall consist of evergreens. A solid wall or fence, not to exceed seven feet in height, complemented by suitable plantings, may be substituted for such landscape buffer strip. **[Amended 3-10-2020 Town Meeting Amendment No. 1]**

§ 143-56 Fences.

For the construction of fences the following requirements shall apply:

A. No fence shall be erected that exceeds seven feet in height. Fences in excess of seven feet shall require a Special Exception from the Zoning Board of Adjustment;

B. When erected near a property or lot boundary line, all of the fence and any of its supporting structures or appurtenances shall be contained within the lot or property of the person erecting or having erected said fence; and

C. No fence shall be erected without first obtaining a permit from the Code Enforcement Officer.

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; or **[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.

(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 is:	
	(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. 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.

§ 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:

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

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

(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;

(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;

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

(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

(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.

[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.

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 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
Awing	-	-	P	P	P	P	
			V	V	V	V	

TYPE	R1	R3	B1	B2	C1	LO	Special Conditions
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	1	1	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	

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)

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)

§ 143-63 Special conditions for specific types of signs.

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

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]**

D. 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) 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;

(2) Letters shall not exceed 10 inches in height; and

(3) 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.

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

(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.

G. Free-Standing: 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) 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

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

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.

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

(1) 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;

(2) Letters or symbols shall not exceed 12 inches in height; and

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

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.

(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.

L. Off-premise signs:

(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.

(NOTE: Signs indicating for rent/sale/lease shall not be permitted as off-premise signs)

(2) Off-premise signs shall be uniform in color, having a dark background with light colors, or a light background with dark colors; 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.

M. Painted wall signs: A permanent symbol or message painted directly onto a building surface. A special exception is required for all new signs of this type and must comply with the dimensional requirements of a wall sign; 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.

(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.

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

(1) If flat, each face shall not exceed 10 square feet;

(2) The total area of a 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;

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

(4) The supporting framework shall be in proportion to the size of the sign;

(5) 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;

(6) 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

(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 building.

(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.

(NOTE: 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)

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

(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;

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

(3) Such signs shall have an aggregate area not exceeding 1.5 square feet for each linear foot of building lot line, or 10% of the wall area to which it is attached, whichever is less;

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

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

(6) No part of a wall sign, including the display surface shall extend more than 10 inches from the building surface; and

(7) 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

R. Window signs: 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

(2) Are used as public service signs, temporary announcements of activities or signs required by law.

S. Flags: Flags of a patriotic nature and "OPEN" flags are permitted providing that:

(1) Patriotic flags are flown, and cared for in a manner as stipulated by federal and state law; and

(2) No more than one "OPEN" flag shall be displayed at any one time.

T. 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.

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

(1) No sign shall be placed on any lot without a sign permit. A new permit shall be required and a new fee charged for each different sign and for each 15 day period. Each sign permit shall specify the date of placement and the date of removal;

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

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

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

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

(1) No portable sign shall be placed on any lot without a sign permit. A new permit shall be required and a new fee charged for each different sign

and for each 15 day period. Each sign permit shall specify the date of placement and the date of removal;

(2) Only one portable sign shall be placed on a lot at any one time;

(3) No lot shall have portable signs placed upon it for more than 45 days per calendar year; and

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

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]**

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

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) No more than one electronic changing sign shall be allowed per lot;

(2) 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;

(3) 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;

(4) 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;

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

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

(7) 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;

(8) 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) 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;

(10) 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]**

§ 143-64 Standards for the Illumination of Signs.

A. External illumination: Signs shall be illuminated only with steady, shielded light sources directed solely onto the sign without causing glare.

B. Internal illumination:

(1) Internal illumination is generally discouraged, but may be appropriate in certain circumstances subject to the following:

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

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

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

(2) 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;

(3) No person may erect a sign which flashes, rotates, or has motorized moving parts;

(4) All signs must be listed and installed in accordance with the National Electrical Code (NFPA 70);

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

(6) 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;

(7) 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]**

§ 143-65 Maintenance.

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. 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]

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.	

ARTICLE VIIIA- Telecommunications Facility & Antenna Criteria (§ 143-66.1 - § 143-66.15)

[Added 3-13-1999 Town Meeting by Amendment No. 1; Amended 3-10-2020 Town Meeting Amendment No. 4]

§ 143-66.1 Purpose.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of standards for the development of telecommunication facilities and installation of towers and antennas. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of Pembroke as set forth within the goals, objectives and policies of the Pembroke Master Plan; while at the same time not unduly restricting the development of needed telecommunications facilities and important amateur radio installations and encouraging managed development of telecommunications infrastructure to insure Pembroke's role in the evolution of technology. It is also the stated intent of this Chapter to provide a public forum to insure a balance between public concerns and private interest in establishing telecommunication and related facilities.

It is furthermore intended that, to all extent permitted by law, the Town shall apply these regulations to specifically accomplish the following:

A. Protect the visual character of the Town from the potential adverse effects of telecommunication facility development through careful design and siting standards;

B. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

C. Retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives.

D. Protect the inhabitants of Pembroke by ensuring that applicants comply with FCC regulations on radio frequency exposure guidelines.

E. Protect the environmental resources of Pembroke;

F. Seek to establish a regulatory process to assist in providing a competitive and broad range of telecommunications services and high quality telecommunications infrastructure for residents and the business community; **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

G. Create and preserve telecommunication facilities that will serve as an important and effective part of Pembroke's emergency response network; and

H. Simplify and shorten the process for obtaining necessary permits for telecommunication facilities while at the same time protecting the legitimate interests of Pembroke citizens.

I. Comply with RSA 12-K.

§ 143-66.2 Application.

A. Except as herein provided, the provisions of this chapter shall apply to the erection, construction, reconstruction, relocation, or use of telecommunications towers, antenna, or buildings and structures associated with the use thereof, within the Town of Pembroke. It shall not apply to collocation or modification applications which do not constitute substantial modification as defined in RSA 12-K:2.

B. Whenever the applicant is required to secure a special exception under this Article, the special exception shall be obtained prior to submitting an application to the Planning Board for site plan approval. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

C. Public Property: Antennas or towers for governmental purposes located on property owned, leased, or otherwise controlled by the Town shall be exempted from the requirements of this ordinance. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

D. Amateur Radio: In accordance with RSA 674:16, IV, this ordinance does not apply to antennas or to towers under 80' in height that are used exclusively for amateur radio services and that: **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

(1) Are owned and operated by a federally licensed amateur radio operator;

(2) Conform to federal standards for such facilities; and

(3) Are otherwise preempted from local zoning ordinances pursuant to regulations adopted by the Federal Communications Commission.

E. Essential Services and Public Utilities: Wireless Telecommunications Facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in

the Town's ordinances and regulations. Siting for telecommunications facilities is a use of land and is subject to the Town's Zoning ordinance and all other applicable ordinances and regulations. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

§ 143-66.3 Special exception.

A. Except as provided in this article VIIIA, it shall be unlawful to erect, construct in place, place, or re-erect, replace, or make any substantial modification to any existing tower without securing a special exception therefore as hereinafter provided. **[Amended 3-11-2008 Town Meeting by Amendment No. 3] [Amended on 3-11-2014 Town Meeting by Amendment No. 8]**

B. The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.

C. The height of towers and antennae shall be the minimum necessary to provide the proposed wireless communication services. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

D. The applicant shall provide at the time of application a structural analysis of the proposed tower prepared by a qualified and registered professional engineer. **[Added 3-11-2008 Town Meeting by Amendment No. 3]**

E. Special Exceptions are not required for:

(1) Applications for co-location or modifications that do not constitute substantial modifications.

(2) Antennas and/or towers that are erected temporarily for test purposes, for emergency communication, or for remote broadcast operations. Temporary antennas shall be removed within seventy-two (72) hours of erection, unless otherwise approved by the Board of Selectmen. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

(3) Routine maintenance and emergency repair.

§ 143-66.4 Existing antennas and towers.

A. Antennas and towers lawfully in existence as of the adoption of this Article which do not conform to or comply with this Article are subject to the following provisions: **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

(1) Towers may continue in use for the purpose now used and as now existing but may not be replaced or substantially modified without complying in all respects with this Article. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

(2) If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefore, but without otherwise complying with this Article. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

B. Installation of new antennas on an existing tower shall require a building permit.

C. Replacements of existing antennas and the installations of new antennas as allowed pursuant to this section 143-66.4 shall be allowed upon issuance of a building permit by the building inspector. A building permit is not required for routine maintenance and repair so long as the size, number, or location of the antenna is not altered. **[Added 3-11-2008 Town Meeting by Amendment No. 3]**

§ 143-66.5 Co-Location requirements.

All commercial wireless telecommunication towers erected, constructed, or located within the Town shall comply with the following co-location requirements:

A. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the ZBA finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius (one half mile search radius for towers under 120 feet in height, one quarter mile search radius for towers under 80 feet in height) of the proposal tower due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost;

(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;

(3) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; or

(4) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

B. The applicant shall prove that location on existing towers or buildings is not feasible by submitting the following documentation:

(1) A list of all contacts made with regard to the availability of potential wireless service facility;

(2) Copies of letters of inquiry made to owners of existing structures and letters of rejection;

(3) If a carrier claims that a structure is not structurally capable of supporting a wireless service facility, this claim must be certified by a registered engineer licensed in the State of New Hampshire. This certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the wireless facility at reasonable cost.

C. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

§ 143-66.6 Tower construction requirements.

All towers erected, constructed, or located within the Town, and all wiring therefore, shall comply with the following requirements:

A. All applicable provisions of this chapter;

B. Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of nationally recognized engineering standards for towers and the Town of Pembroke's adopted national building code.

C. With the exception of necessary electric and telephone service and connection lines approved by the ZBA, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

D. Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

E. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

F. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

G. All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.

H. Towers, antennas and commercial wireless telecommunication service towers shall be of a design that is appropriate for the surrounding environment.

§ 143-66.7 Tower setbacks.

Towers shall conform with each of the following minimum setback requirements:

A. Towers shall meet the setbacks of the underlying zoning district with the exception of commercial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another commercially zoned property and the tower does not encroach upon any easements.

B. In order to ensure public safety, towers shall be set back by a minimum distance from the ground mount to any property line, planned right of way, road, habitable dwelling, business or institutional use or public recreational area. The minimum distance shall be 100% of the height of the facility, including any antennas or other appurtenances. This setback is considered the "fall zone." The Planning Board may reduce the fall zone upon a showing that the technical quality and nature of the facility does not require as large a fall zone as is otherwise required by this section.

C. Towers shall not be located between a principal structure and a public street, with the following exceptions:

(1) In commercial zoning districts, towers may be placed within a side yard abutting an internal commercial street.

(2) On sites adjacent to public streets on all sides, towers may be placed within a site yard abutting a local street.

§ 143-66.8 Tower lighting.

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

§ 143-66.9 Signs and advertising.

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

§ 143-66.10 Accessory utility building.

All utility buildings and structures accessory to a tower shall conform to the Town of Pembroke's building code and be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

§ 143-66.11 Abandoned or unused towers or portions of towers.

Abandoned or unused towers or portions of towers shall be removed as follows:

A. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Zoning Board of Adjustment. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the Town and the costs of removal assessed against the property.

B. Unused sections of towers shall be removed within twelve months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new special use permit.

§ 143-66.12 Antennas or antenna arrays mounted on roofs or walls.

The placement of wireless telecommunication antennas or antenna arrays on roofs or walls shall require a building permit

§ 143-66.13 Interference with public safety telecommunications.

A. No new or existing telecommunications service shall interfere with public safety telecommunications.

B. All applications for new service proposed to be constructed within a one mile radius of an existing Town of Pembroke public safety telecommunications antenna shall be accompanied by a professionally prepared intermodulation study that provides a technical evaluation of the potential interference of the new proposed application with existing public safety transmit and receive frequencies. **[Amended 3-11-2008 Town Meeting by Amendment No. 3]**

C. Notwithstanding the above requirements of this section, if a new telecommunications installation causes harmful interference to a Town of Pembroke public safety system, the new installation shall be immediately disabled and shall not be restored to service until the harmful interference

has been fully eliminated. **[Added 3-11-2008 Town Meeting by Amendment No. 3]**

D. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Town at least ten (10) calendar days in advance of such changes and allow the Town to monitor interference levels during the testing process.

§ 143-66.14 Inspections.

Reserved.

§ 143-66.15 Additional submittal requirements.

In addition to the information required elsewhere in this code and the town of Pembroke Site Plan review Regulations, development applications for towers shall include the following supplemental information:

A. A report from a qualified and licensed professional engineer which:

(1) Describes the tower height and design including a cross section and deviation;

(2) Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antenna;

(3) Describes the tower's capability, including the number and type of antennas that it can accommodate;

(4) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

(5) Includes an engineer's stamp and registration number; and,

(6) Includes other information necessary to evaluate the request.

B. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and or his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

C. Before the issuance of a building permit, the following supplemental information shall be submitted:

(1) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and,

(2) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

ARTICLE IX- Overlay Districts (§143-67- § 143-72)

§ 143-67 Architectural Design (AD) District.

A. Purpose and need: In order to protect the integrity and character of the Pembroke Street (Route 3) area and the Limited Office District, it is necessary to create a special overlay district. All applications for site plan review within this overlay district shall be subject to Planning Board approval so that the proposed use changes or development will be in harmony with the existing character of the surrounding area.

B. Boundaries of district: The boundaries of the district shall be measured to a depth of 500 feet either side of the center line of Pembroke Street from the Suncook River to the Soucook River, including the entire Limited Office District.

C. Accompanying an application for a site plan review, including minor home businesses and major home businesses, the applicant shall submit architectural plans of the exterior design and appearance of all structures, landscaping, signs, parking areas, loading areas and recreational facilities. **[Amended 3-11-2008 Town Meeting by Amendment No. 1]**

§ 143-68 Aquifer Conservation (AC) District.

A. Authority and purpose: Pursuant to authority granted under RSA 674:21, the Town of Pembroke hereby adopts the following regulations. The purpose of these regulations is, in the interest of public health, safety, and general welfare, to protect, preserve, and maintain existing and potential groundwater supply and groundwater recharge areas within known aquifers from adverse development, land use practices, or depletion.

This is to be accomplished by regulating land uses which would contribute polluted water to designated aquifers identified as being needed for present and future public and private water supply.

B. District defined.
[Amended 3-14-2006 Town Meeting by Amendment No. 5]

(1) The Aquifer Conservation District shall encompass these areas which have been designated as having high, medium, and low potential to yield groundwater and shown on the Town of Pembroke Aquifer Conservation District Map, which is on file with the Town Clerk. The basis for said map is the map titled "Map Showing Saturated Thickness, Transmissivity, and Materials of Stratified-Drift Aquifers in the Upper Merrimack River Basin, South-Central New Hampshire, Southwestern Part, Plate 5 and 6," which was prepared by the US Geological Survey in cooperation with the New Hampshire Department of Environmental Services Water Resources Division and dated 1996.

C. Incorrectly designated zones: When the actual boundary of the Aquifer Conservation District is disputed by the Planning Board or by any owner or abutter affected by said boundary, the Planning Board at the owner/abutter's expense may engage the services of a professional geologist or hydrologist to determine more accurately the precise boundary of said District. The Planning Board shall have the authority to make the final determination as to the location of a disputed boundary. **[Amended 3-14-2006 Town Meeting by Amendment No. 5]**

D. Prohibited uses: The following uses shall not be permitted within the Aquifer Conservation District:

(1) Disposal of solid waste, as defined in NH RSA 149-M:4,
[Amended 3-13-2007 Town Meeting by Amendment No. 1]

(2) Subsurface storage of petroleum and refined petroleum products and chemicals;

(3) Disposal of liquid or leachable wastes except from residential commercial or industrial systems which discharge human sanitary wastes only;

(4) Industrial uses which discharge contact type process waters on site. Non-contact cooling water discharge is permitted;

(5) Outdoor unenclosed or uncovered storage of road salt and salt/sand mixtures;
[Amended 3-13-2007 Town Meeting by Amendment No. 1]

(6) Dumping of snow containing de-icing chemicals if it is brought from off-site;
[Amended 3-13-2007 Town Meeting by Amendment No. 1]

(7) Commercial animal feedlots;

(8) Excavation of sand or gravel except where the land owner can demonstrate through hydrogeological studies or otherwise that there will be no adverse effects on the aquifer;

(9) Disposal, processing, storage, or recycling of hazardous waste, as defined in NH RSA 147-A:2, VII; **[Amended 3-13-2007 Town Meeting by Amendment No. 1]**

(10) Automotive service or repair shops;

(11) Junk and salvage yards; and

(12) Storage of hazardous waste for resale or distribution, unless such material is pre-packaged for retail sale prior to storage on the site; **[Amended 3-13-2007 Town Meeting by Amendment No. 1]**

(13) Commercial and industrial vehicle maintenance as a principal use. **[Added 3-14-2006 Town Meeting by Amendment No. 5]**

E. Special use permit: Any use permitted in the underlying district, except these which are expressly prohibited in section D, above, shall be reviewed by the Planning Board, the Health Officer, Pembroke Water Works, and shall conform to the provisions of this section. Special use permits may be granted by the Planning Board subject to the following additional limitations: **[Amended 3-9-2010 Town Meeting by Amendment No. 4]**

(1) List each chemical, provide an MSDS for each chemical, and provide a notification letter with a brief synopsis of how each chemical is intended to be used, stored and disposed of for all chemicals stored in aggregate of one gallon or more or if the yearly use is five gallons or more. This requirement shall exclude operable motor vehicles, as defined by RSA 236:111 and RSA 236:112, parked on site. This list shall be submitted to the Pembroke Water Works for review and opinion prior to site plan approval.

(a) If in the opinion of the Pembroke Water Works an environmental consultant review is required, the Town of Pembroke shall hire the consultant at the applicant's expense.

["Reserved" was removed and replaced with an amended Section E.1 and E.1 (a) was added on 3-11-2014 Town Meeting by Amendment No. 12]

Editor's Note: Former Subsection E(1), which limited the impervious area of a lot, was repealed 3-14-2006 by Amendment No. 5.

(2) Petroleum products, chemicals, road salt, and other materials which have the potential for contaminating groundwater shall be stored above ground level within a fully enclosed structure designed to contain any spill within the structure. Waste that has the potential to become classified as hazardous in Title 40 of the Code of Federal Regulations (40 CFR) Part 261 must be stored indoors in an area that is free of floor drains or other sumps or penetrations that allow contact with soil or ground water.**[Amended on 3-11-2014 Town Meeting by Amendment No. 12]**

(a) At any time that there is a change in chemicals used at the facility or new chemicals added, that would meet the quantity threshold, the Town of Pembroke shall require written notification to the Pembroke Planning Department and the Pembroke Water Works and a copy of the MSDS to be supplied.**[Added on 3-11-2014 Town Meeting by Amendment No. 12]**

(b) If in the opinion of the Pembroke Water Works an environmental consultant review is required, the Town of Pembroke shall hire the consultant at the applicant's expense.**[Added on 3-11-2014 Town Meeting by Amendment No. 12]**

(c) If there are no changes, the Town of Pembroke would require a letter stating as such every five years. **[Added on 3-11-2014 Town Meeting by Amendment No. 12]**

(3) In the case of any sand or gravel excavation permitted in accordance with RSA 155-E, or with respect to any earth removal allowed as being incidental to any permitted use, such excavation or removal shall not be carried out within eight vertical feet of the seasonal high water table;

(4) Storm drainage facilities shall be designed so that normal infiltration to groundwater is retained; and

(5) One family and two-family homes are exempt from Special Use Permit review.

F. Special Exceptions: For use which may be allowed by special exception in the underlying zoning district the Zoning Board of Adjustment must first find, in written findings of fact, that all of the following are true:

(1) The proposed use will not have a detrimental effect on the quality of the groundwater contained in the aquifer by directly contributing to pollution or by increasing the long-term susceptibility of the aquifer to potential pollutants;

(2) The proposed use will not cause a significant reduction in the long-term volume of water contained in the aquifer, or in the storage capacity of the aquifer;

(3) The proposed use will discharge no wastewater on site other than that which is permitted under the provisions of this section; and

(4) The proposed use complies with all other applicable sections of this section.

The Zoning Board of Adjustment may require that the applicant for a special exception provide data or reports prepared by a professional engineer or qualified groundwater consultant to assess any potential damage to the aquifer that may result from the proposed use. The Zoning Board of Adjustment may engage such professional assistance as it requires to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria. Costs for any of the above-mentioned services shall be paid by the applicant.
Prior to rendering a decision on an application for a Special Exception, the Zoning Board of Adjustment shall request input from the Planning Department, the Conservation Commission, Pembroke Water Works, and the Health Officer, as to whether the proposed use is consistent with the purpose of this section. **[Amended 3-13-2007 Town Meeting by Amendment No. 1] [Amended 3-13-2018 Town Meeting Amendment No. 2]**

G. Non-conforming uses: Any non-conforming use may continue and may be maintained, repaired and improved, unless such use is determined to be an

imminent hazard to public health and safety by the Selectmen or Health Officer.

H. Administration: The provisions of the Aquifer Conservation District shall be administered by the Planning Board and the Zoning Board of Adjustment. All development proposals, shall be subject to subdivision and/or site plan review and approval, and shall require a Special Use Permit if located within the Aquifer Conservation District, in accordance with Planning Board rules and regulations. Such review and approval shall precede the issuance of any building permit by the Town.
Exclusions: One or Two Family residential construction, Lot Line Adjustment, and Minor Subdivision applications. If the Planner, upon review, feels that a Lot Line Adjustment application or Minor Subdivision application warrants Planning Board review, then a Special Use Permit application shall be required to be submitted by the applicant.**[Amended 3-10-2015 Town Meeting by Amendment No. 6]**

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, 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:

(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;

(2) Be constructed with materials resistant to flood damage;

(3) Be constructed by methods and practices that minimize flood damages; and

(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 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 NGVD) to which the structure was flood proofed; and

(3) Any certification of flood proofing.

The Code Enforcement Officer shall maintain for public inspection such records, 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.

H. River alterations:

(1) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands 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 Board. **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

(2) 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.

(3) Along watercourses with a designated Regulatory Floodway 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]

(4) 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]**

(5) 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 curing the base flood discharge.” **[Amended 3-11-2008 Town Meeting by Amendment No. 4]**

I. Flood elevation determination:

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

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

(b) In unnumbered A zones the Code Enforcement Officer shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

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

(2) The Code Enforcement Officer's 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) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood elevation; and

(b) That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

[1] Be flood proofed so that below the 100 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) 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) Recreational vehicles placed on sites within zones 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; or

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

(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 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:

(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.

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

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

(b) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and

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

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

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

(b) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

(4) The Town shall:

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

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

§ 143-70 Municipal Separate Storm Sewer System (MS4) District.

[Adopted 3-9-2021 Town Meeting by Amendment No. 4]

A. OVERVIEW

(1) Applicability of Stormwater Management Standards.

The Municipal Separate Storm Sewer System (MS4) Stormwater Management Overlay District shall be comprised of all land depicted in the MS4 Stormwater Management Overlay District as depicted on the Official

Zoning Map of the Town of Pembroke dated March 9, 2021. The following stormwater standards shall apply to all land within the district boundaries. Redevelopment of existing developed sites shall also be subject to the standards described herein.

(2) Compliance with this Article shall be determined during the site plan and subdivision review process. The Planning Board will consult with the Town's Engineer, as needed and at the applicant's expense, to determine compliance. Relief from one or more of the requirements of the overlay district may be granted through issuance of a (SUP) issued by the Planning Board. All such requests to diverge from any requirement or standard shall be accompanied by a narrative description of and justification for the requested relief, a site plan showing the proposed standard(s) and required standard(s).

(3) A Special Use Permit is a decision that would permit relief from or reduction in a specific requirement or standard of the overlay district but that is otherwise generally consistent with its goals, purpose and provisions. The Planning Board shall have the authority to grant or deny a request for a Special Use Permit pursuant to the provisions of RSA 674:16 and RSA 674:21.

(4) The grant or denial of a Special Use Permit by the Planning Board may be appealed to the Superior Court, as provided for in RSA 677:15.

(5) A Special Use Permit, for relief from the requirements of the overlay district, may be granted by the Planning Board after proper public notice and public hearing provided the Planning Board finds that the applicant's request complies with standards (5)(a), (5)(b) or (5)(c) below:
   (a) Improves a specific aspect of public health; ***or***
   (b) Provides an increased level of ecosystem services, environmental or natural resource protection; ***or***
   (c) Provides a measureable public benefit (such as increased public space, open space or public amenities).

B. APPLICABILITY STANDARDS

(1) These standards apply to all projects situated within the MS4 Stormwater Management Overlay District. At the discretion of the Planning Board, qualifying applications may be required to include a post-construction stormwater management plan prepared by an NH licensed engineer.

(2) All projects under review by the Planning Board of such magnitude as to require a stormwater permit from the EPA Construction General Permit (CGP) program or the NH Department of Environmental Services (NHDES) Alteration of Terrain (AOT) program shall comply with the standards of EPA and/or NHDES permits and this section, whereas the stricter standards shall apply.

C. MINIMUM THRESHOLDS FOR APPICABILITY

(1) Minimum Thresholds for Applicability: These stormwater management standards apply to all projects requiring Planning Board review and approval under this Ordinance. For smaller projects that disturb less than 10,000 square feet, an applicant may request a waiver of the full standards providing minimum protections and management are implemented. For the purpose of these standards, “disturbance” is defined as any alteration of the land surface or permanent removal of vegetation or trees associated with a development activity. A “disturbed area” is an area in which the natural vegetative soil cover has been removed or altered and, therefore, is susceptible to erosion.

(2) Waiver Option for Small Development Projects: At the request of an applicant, the Planning Board may grant a waiver to any or all stormwater standards for projects that: disturb less than 10,000 square feet; create less than 5,000 square feet of new impervious surface; and do not disturb land within 100 feet of a surface water body or wetland.

(3) Conditions for Granting of Waivers: In order for the Planning Board to issue a waiver, the applicant must demonstrate, and Board must find that, the application meets the minimum criteria listed below and, if granted, will be considered conditions of approval.

(a) Runoff from **NEW** impervious surfaces shall be directed to a filtration and/or infiltration device or properly discharged to a naturally occurring or fully replanted and vegetated area with slopes of 15 percent or less and with adequate controls to prevent soil erosion and concentrated flow.

(b) Impervious surfaces for parking areas and roads shall be minimized to the extent possible (including minimum parking requirements for proposed uses and minimum road widths).

(c) Runoff generated from **NEW** impervious surfaces shall be retained on the development site and property and mimic natural hydrologic processes to the maximum extent possible, or it is determined that the biological and chemical properties of the receiving waters will not be

degraded by, or its hydrology will benefit from, discharge of stormwater runoff from the development site.

(d) Compliance with standards (3)(a)-(3)(c) above will be determined by the Planning Board on a case by case basis as site conditions and constraints will differ greatly between various redevelopment proposals.

D. BEST MANAGEMENT PRACTICES (BMP)

(1) Performance Specifications: All proposed stormwater practices and measures shall be installed and maintained in accordance with manufacturers' specifications and performance specifications in the NH Stormwater Management Manual Volume 2 (December 2008 or current revision) a copy of which is available from the NHDES website at www.des.nh.gov/organization/divisions/water/stormwater/manual.htm.

(2) Water Quality Protection: All aspects of the application shall be designed to protect the quality of surface waters and groundwater of the Town of Pembroke as follows:

(a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, noxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface water or groundwater so as to contaminate, pollute, harm, impair, or contribute to an impairment of such waters.

(b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall meet the regulations of the New Hampshire Department of Environmental Services (NHDES) including but not limited to those involving Underground Storage Tanks, Above Ground Storage Tanks, Hazardous Waste and Best Management Practices for Groundwater Protection (Env-Wa 401).

(3) Stormwater Management for New Development: All proposed stormwater management and treatment systems shall meet the following performance standards.

(a) All newly generated stormwater, whether from new development, or expansion of existing development (redevelopment), shall be treated on the development site. Runoff shall not be discharged from the development site to municipal drainage systems, privately owned drainage systems (whether enclosed or open drainage). Runoff shall not be discharged to surface water bodies or wetlands in excess of

volumes discharged under existing conditions (developed condition or undeveloped condition).

(b) Existing surface waters, including lakes, ponds, rivers, perennial and intermittent streams (natural or channelized), and wetlands (including vernal pools) shall be protected by the minimum buffer setback distances as specified in the Zoning and Regulations. Stormwater and erosion and sediment control BMPs shall be located outside the specified buffer zone unless otherwise approved by the Planning Board. Alternatives to stream and wetland crossings that eliminate or minimize environmental impacts shall be considered whenever possible. When necessary, as determined by the Planning Board or their representative, stream and wetland crossings shall comply with state recommended design standards to minimize impacts to hydrological flow, and enhance wildlife passage (see the University of New Hampshire Stream Crossing Guidelines (May 2009, as amended) available from the UNH Environmental Research Group website at http://www.unh.edu/erg/stream_restoration/nh_stream_crossing_guidelines_unh_web_rev_2.pdf)

(c) Low Impact Development (LID) site planning and design strategies must be used to the maximum extent practicable in order to reduce the generation of the stormwater runoff volume for both new development and redevelopment projects (see Section E, Applicability for Redevelopment for redevelopment standards). An applicant must document in writing why LID strategies are not appropriate if not used to manage stormwater. A list of potential LID strategies, and a definition, can be found in the Pembroke Site Plan Regulations.

(d) All stormwater treatment areas shall be planted with native plantings appropriate for the site conditions: grasses, shrubs and/or other native plants in sufficient numbers and density to prevent soil erosion and to achieve the water quality treatment requirements of this section.

(e) All areas that receive rainfall runoff must be designed to drain within a maximum of 72 hours for vector control.

(f) Salt storage areas shall be covered and loading/offloading areas shall be designed and maintained in accordance with NH DES published guidance such that no untreated discharge to receiving waters results. Snow storage areas shall be located in accordance with NH DES published guidance so that no direct untreated discharges to receiving waters are possible from the storage site. Runoff from snow and salt storage areas shall enter treatment areas as specified above before being discharged to receiving waters or allowed to infiltrate into the groundwater. See NHDES published guidance fact sheets on road salt,

water quality, and snow disposal at http://des.nh.gov/organization/commissioner/pip/factsheets/wmb/index.htm.

(g) Runoff shall be directed into recessed vegetated and landscape areas designed for treatment and/or filtration to the maximum extent possible to minimize Effective Impervious Cover (EIC) and reduce the need for irrigation systems.

(h) A development plan shall include provisions to retain stormwater on the site by using the natural flow patterns of the site. Runoff from impervious surfaces shall be treated to achieve 80% removal of Total Suspended Solids and at least 50% removal of both total nitrogen and total phosphorus using appropriate treatment measures, as specified in the NH Stormwater Manual. Volumes 1 and 2, December 2008 as amended (refer to Volume 2, page 6, Table 2.1 Summary of Design Criteria, Water Quality Volume for treatment criteria) or other equivalent means. Where practical, the use of natural, vegetated filtration and/or infiltration BMPs or subsurface gravel wetlands for water quality treatment is preferred given its relatively high nitrogen removal efficiency.

Note: The Anti-Degradation provisions of the State Water Quality Standards require that runoff from new development shall not lower water quality or contribute to existing water body impairments.

(i) Measures shall be taken to control the post-development peak rate runoff so that it does not exceed pre-development runoff for the 2-year, 10-year and 25-year, 24-hour storm events. Similar measures shall be taken to control the post-development runoff volume to infiltrate the Groundwater Recharge Volume (GRV) according to the following ratios of Hydrologic Soil Group (HSG) type versus infiltration rate multiplier: HSG-A: 1.0; HSG-B: 0.75; HSG-C: 0.4; HSG-D: 0.15. For sites where infiltration is limited or not practicable, the applicant must demonstrate that the project will not create or contribute to water quality impairment. Infiltration structures shall be in locations with the highest permeability on the site.

(j) The physical, biological and chemical integrity of the receiving waters shall not be degraded by the stormwater runoff from the development site.

(k) The design of the stormwater drainage system shall provide for the disposal of stormwater without flooding or functional impairment to

streets, adjacent properties, downstream properties, soils, or vegetation.

(l) The design of the stormwater management systems shall take into account upstream and upgradient runoff that flows onto, over, or through the site to be developed or re-developed, and provide for this contribution of runoff.

(m) Appropriate erosion and sediment control measures, as described here and/or in the Site Plan and Subdivision Regulations, shall be installed prior to any soil disturbance, the area of disturbance shall be kept to a minimum, and any sediment in runoff shall be retained within the project area. Such control measures shall be inspected by the Building Inspector or other Town Official (including the Town's Engineer) prior to beginning any site work. Wetland areas and surface waters shall be protected from sediment. Disturbed soil areas shall be either temporarily or permanently stabilized consistent with the NHDES Stormwater Manual Volume 3 guidelines. In areas where final grading has not occurred, temporary stabilization measures should be in place within 7 days for exposed soil areas within 100 feet of a surface water body or wetland and no more than fourteen (14) days for all other areas. Permanent stabilization should be in place no more than 3 days following the completion of final grading of exposed soil areas.

(n) All temporary control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized prior to removal of temporary control measures.

(o) Every effort shall be made to use pervious parking surfaces as an alternative to impervious asphalt or concrete for general and overflow parking areas. Pervious pavement shall be appropriately sited and designed for traffic and vehicle loading conditions.

(p) Whenever practicable, native site vegetation shall be retained, protected, or supplemented. Any stripping of vegetation shall be done in a manner that minimizes soil erosion.

E. APPLICABILITY FOR REDEVELOPMENT

(1) Redevelopment Criteria:

(a) In order to determine the stormwater requirements for redevelopment projects, the percentage of the site covered by existing impervious areas must be calculated. Stormwater requirements for redevelopment

will vary based upon the amount of site surface area that is covered by existing impervious surfaces.

(b) For sites meeting the definition of a redevelopment project and having less than 40% existing impervious surface coverage, the stormwater management requirements will be the same as other new development projects with the important distinction that the applicant can meet those requirements either on-site or at an approved off-site location. The applicant must satisfactorily demonstrate that impervious area reduction, LID strategies and BMPs have been implemented on-site to the maximum extent practicable.

(c) For sites meeting the definition of a redevelopment project and having more than 40% existing impervious surface coverage, stormwater shall be managed for water quality in accordance with one or more of the following techniques:

[1] Implement measures on-site that result in disconnection or treatment of at least 30% of the existing impervious cover as well as 50% of the additional proposed impervious surfaces and pavement areas through the application of filtration media; or

[2] If a proposal does not meet the standards described in item E.(1)(c)[1] above, it must implement other LID techniques on-site to the maximum extent practicable to provide treatment for at least 50% of the entire site area.

F. STORMWATER MANAGEMENT PLAN APPROVAL AND RECORDATION

(1) Plan Approval and Review. The Planning Board shall approve the Stormwater Management Plan if it complies with the requirements of these regulations and other requirements as provided by law. At the discretion of the Planning Board, a technical review by a third party may be required of any stormwater management and erosion control plan prepared under these regulations. The technical review shall be performed by a qualified professional consultant, as determined by the Planning Board, and the expense of which shall be the full responsibility of the applicant.

(2) Recordation of Approved Stormwater Management Plan. After final Planning Board approval, and established as a condition of such approval, the owner of record of the property shall record at the Merrimack County Registry of Deeds documentation sufficient to provide notice to all persons that may acquire any property subject to the requirements of and responsibilities described in the approved stormwater management plan (see RSA 477:3-a). The notice shall comply with the applicable

requirements for recording contained in RSA 477 and 478. A copy shall also be provided to the Pembroke Town Planner and Pembroke Building Inspector. Further, if the Registry of Deeds will not record the document documentation the Planning Board's Notice of Decision shall be recorded in its place indicating the presence of the Stormwater Management Plan being on file with the Town.

G. OPERATIONS AND MAINTENANCE CRITERIA

Stormwater management and sediment and erosion control plans shall be incorporated as part of any approved site plan or subdivision plan. The owner of record of the property shall record a Notice of Decision of these plans at the Merrimack County Registry of Deeds. The Notice of Decision shall be attached to the property deed and apply to all persons that may acquire any property subject to the approved stormwater management and sediment control plans. The Notice of Decision shall reference the requirements for maintenance pursuant to the stormwater management and erosion and sediment control plans as approved by the Planning Board.

H. POST-CONSTRUCTION STORMWATER INFRASTRUCTURE – INSPECTION AND RESPONSIBILITY

Municipal staff or their designated agent(s) shall have site access to complete routine inspections to ensure compliance with the approved stormwater management and sediment and erosion control plans. Such inspections shall be performed at a time agreed upon with the landowner. If permission to inspect is denied by the landowner, municipal staff or their designated agent shall secure an administrative inspection warrant from the district or superior court under RSA 595-B Administrative Inspection Warrants. Expenses associated with inspections shall be the responsibility of the applicant/property owner.

The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the Planning Board. Site development shall not begin before the Stormwater Management Plan receives written approval by the Planning Board.

The municipality retains the right, though accepts no responsibility, to repair or maintain stormwater infrastructure if: a property is abandoned or becomes vacant; and in the event a property owner refuses to repair infrastructure that is damaged or is not functioning properly. In the event the municipality acts to maintain or repair infrastructure, it may seek compensation and/or reimbursement for such actions from the property owner in a manner consistent with applicable state law.

§ 143-71 Shoreland Protection (SP) District.

A. Purpose: The purpose of this District is to control erosion, protect the water quality, visual character, recreational use, economic value and wildlife habitat of the shoreland areas. The Town of Pembroke is particularly interested in the protection of the Merrimack River and its tributaries since the Merrimack River is the source of public drinking downstream communities. This section is intended to protect these values which caused the 1990 New Hampshire Legislature to create the Heritage Trail along the entire length of the Merrimack River.

B. District defined: The Shoreland Protection District shall be all land located within 125 feet horizontal measure from the normal annual water line of the Merrimack River, the Suncook River and the Soucook River.

C. Restrictions: Within this district the following restrictions shall apply:

(1) There shall be no roads, driveways or parking areas;

(2) There shall be no permanent or temporary structures established, with the exception of docks and structures necessary for the housing of pumps, provided however, that said exceptions shall require a special use permit from the Planning Board;

(3) There shall be no septic disposal systems;

(4) There shall be no excavation or filling unless a special use permit has been granted by the Planning Board, the application therefore having been referred to the Conservation Commission and reported thereon prior to the public hearing, or 30 days having lapsed following such referral without receipt of such report;

(5) No more than 50% of the basal area of trees over three inches in caliper shall be cut or otherwise felled in a 20 year period without approval from the Planning Board. A well distributed cover of healthy, growing trees or other vegetation, suitable to prevent erosion shall be maintained within the Shoreland Protection District (Basal area shall mean the cross-sectional area of the trunk of the plants at a height of four and one half (4 1/2) feet above the ground, usually expressed in square feet per unit of land area); and

(6) For the purposes of agricultural, silviculture or forestry pursuits, the 125 feet mentioned in § **143-71**(B) shall be reduced to 50 feet and within said 50 feet no vegetation shall be cut.

D. Permitted uses: Any of the following uses that do not result in the erection of any building, or alter the surface configuration, or the addition of fill, and that are otherwise permitted by the Zoning Ordinance are permitted by right:

(1) Forestry, silviculture;

(2) Agriculture, including grazing, farming, truck gardening and harvesting of crops;

(3) Water impoundments and well supplies;

(4) Wildlife refuge;

(5) Parks and such recreational uses as are consistent with the purpose and intention of this section;

(6) Conservation areas and nature trails;

(7) Open space as permitted by the Pembroke subdivision regulations and other pertinent sections of this Chapter; and

(8) Dry hydrants, if necessary.

E. Special use permits: The Planning Board, after proper public notice and a public hearing thereon, may grant a special use permit for the undertaking of a use not otherwise permitted in the Shoreland Protection District which may include the erection of a building or otherwise altering the surface configuration of the land if it can be shown that such proposed use will not conflict with the purpose and intention of this section and if such proposed use is otherwise permitted by the Zoning Ordinance. Proper evidence to this effect shall be submitted to the Planning Board and shall be accompanied by the findings of a review by the Town Engineer as to the environmental effects of such proposed use upon the shoreland in question. The application for such special use permit having been referred by the Planning Board to the Conservation Commission and reported thereon prior to the public hearing, or 30 days having lapsed following such referral without receipt of such report.

§ 143-71.1 Suncook Business Overlay District.

[Added 3-8-2005 Town Meeting by Amendment No. 5]

A. Purpose: The purpose of this District is to restrict residential dwellings from the first floor of buildings in the Suncook Business District.

B. Boundaries of the District: The boundaries of the district shall be:

(1) Both sides of Main Street south of Union Street and Central Street, and north of Front Street and Glass Street.

(2) Easterly side of Main Street south of Glass Street, and north of Mills Falls.

(3) Both sides of Glass Street west of Crescent Street and east of Main Street.

(4) Both sides of Union Street east of Prospect Street and west of Main Street.

(5) Properties at the intersections of Front Street and Main Street; and Central Street and Main Street.

§ 143-72 Wetlands Protection (WP) District.

[Amended 3-08-2011 Town Meeting by Amendment No. 5; Amended 3-10-2020 Town Meeting by Amendments No. 7 & 8]

A. Purpose: The purpose of this section is to protect those lands identified as wetlands as defined by NHDES regulations by:

(1) Controlling building and land uses on naturally occurring wetlands which would contribute to pollution of surface and groundwater;

(2) Preventing the destruction of natural wetlands which provide flood protection, recharge of groundwater supply and augmentation of stream flow during dry periods;

(3) Preventing unnecessary or excessive expenses to the Town to provide and maintain essential utilities and services which arise because of inharmonious use of wetlands; and

(4) Encouraging uses that can be appropriately and safely located in wetland area.

B. General: The Wetlands Protection regulations shall be considered as having precedence over all other regulations in any area designated as a

wetland. Any use permitted in that portion of the underlying Zoning district shall only be permitted subject to all of the provisions of this section.

C. Allowed uses: Any of the following uses that do not result in the erection of any building, or alter the surface configuration, or the addition of fill, and that are otherwise allowed by the Zoning Ordinance are allowed by right and do not require a Special Use Permit:

(1) Forestry, silviculture;

(2) Agriculture, including grazing, farming, truck gardening and harvesting of crops with usual and customary fencing;

(3) Water impoundments and well supplies;

(4) Wildlife refuge;

(5) Parks and such recreational uses as are consistent with the purpose and intention of this section;

(6) Conservation areas and nature trails; and

(7) Open space as permitted by the Pembroke Subdivision Regulations

Editor's Note: See Ch 205, Subdivision of Land. and other pertinent sections of this Chapter.

EXCEPTIONS: Uses not expressly allowed in Paragraph C. above may be allowed by the Pembroke Planning Board through a special use permit. Paragraph D. below states which uses may qualify for application for a special use permit and the subsequent process and requirements thereof.

D. Special use permits: The Planning Board, after proper public notice and a public hearing thereon, may grant a special use permit for any use not otherwise allowed in the Wetlands Protection areas, including the no-disturb buffer, so long as the use is located and constructed as to minimize any detrimental impact of such uses upon the wetlands. These uses may include:

(1) The erection of a structure;

(2) The construction of streets, roads, and other access ways and utility rights-of-way, if essential to the productive use of adjoining land;

(3) Otherwise altering the surface configuration of the land.

[Amended 3-9-2021 Town Meeting by Amendment No. 3]

The approval of any special use permit is subject to the following:

(1) The application for such special use permit having been referred by the Planning Board to the Conservation Commission and reported thereon prior to the public hearing or 30 days having lapsed following such referral without receipt of such report;

(2) The Planning Board may require a review by the Town Engineer and/or a Certified Wetland Scientist of the Board's choice at the applicant's expense;

(3) The application for a special use permit shall demonstrate that the proposed use will not conflict with the purpose and intention of this section, and that the proposed use is otherwise permitted by the Zoning Ordinance;

(4) An engineering and/or other professional study of the Planning Board's choice may be required to accompany the application for a special use permit clearly demonstrating the following:

(a) How the proposed construction has been designed to minimize impact to the wetlands;

(b) That alternatives to a wetlands impact have been thoroughly studied and found to be impractical.

(5) Permanent wetland boundary demarcation may be required by the Planning Board.

E. Other requirements:

(1) No septic tank or leach field may be located closer than a minimum of 75 feet measured horizontally from any wetland, nor 125 feet measured horizontally from any body of open water.

(2) All wetlands shall have a no-disturb buffer measured 50 feet horizontally from any wetland boundary.

(3) All vernal pools shall have a no-disturb buffer measured 100 feet horizontally from any vernal pool boundary.

(4) All applicable wetlands permits required by any State and/or Federal authorities shall be submitted to the Town of Pembroke prior to Planning Board final approval.

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.

§ 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. 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.

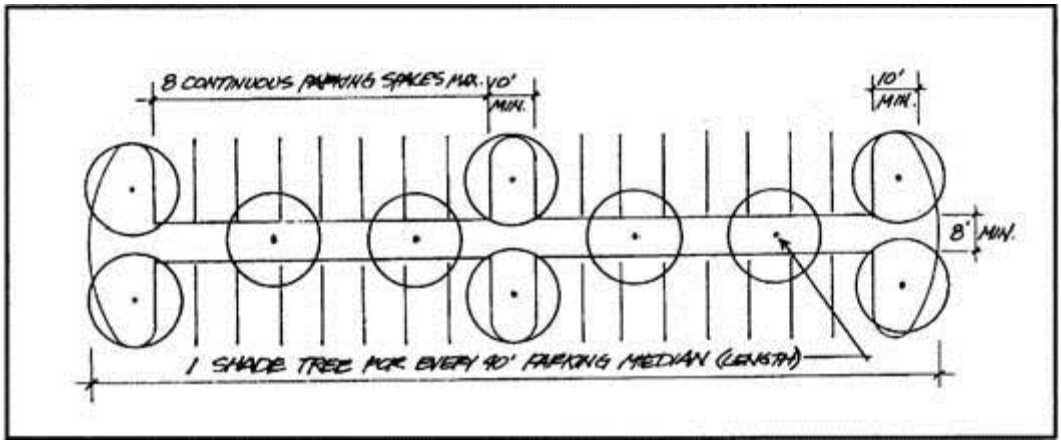
(b) A minimum eight-foot wide planting median should be provided between adjacent rows of parking. See graphic titled "Parking Lot Landscape Median".

(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.

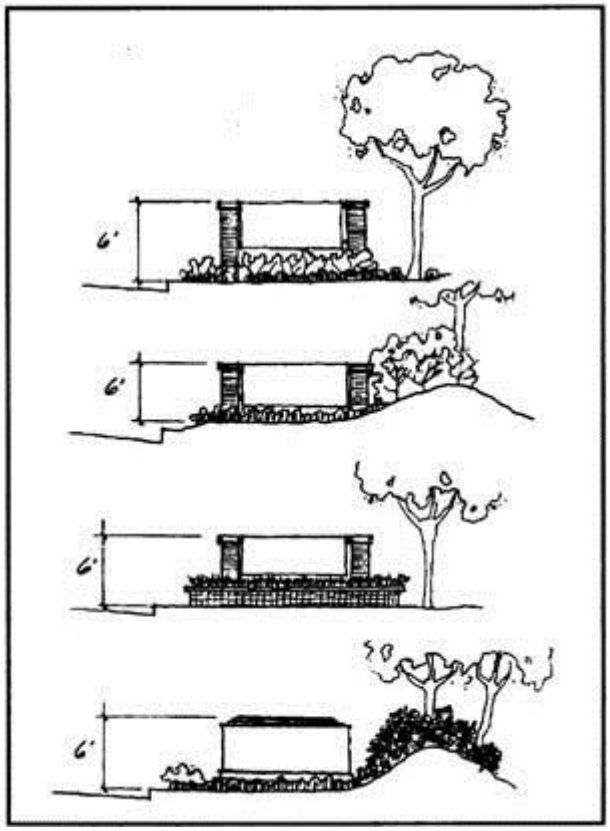
(b) Major tenant and street address range included within the center.

(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

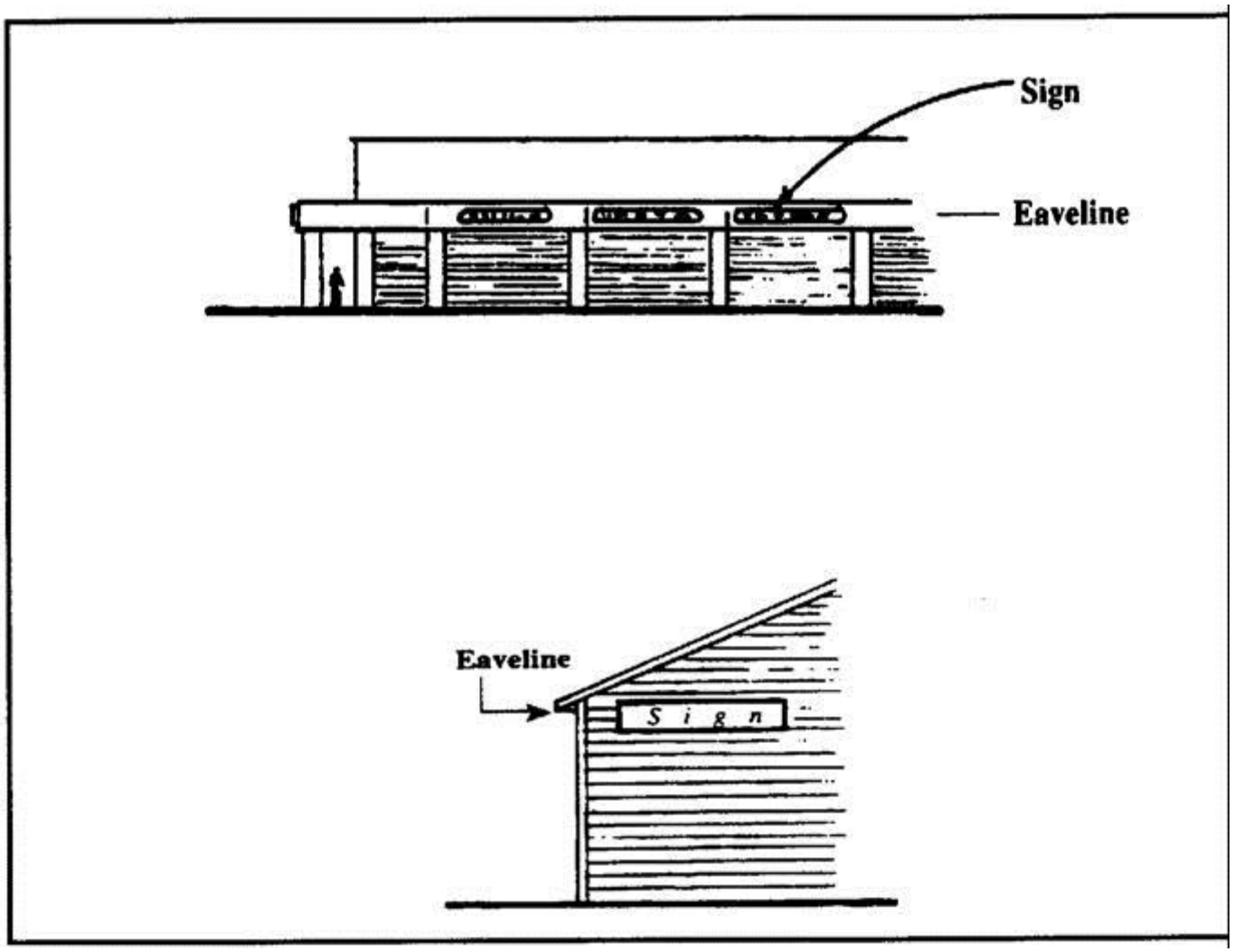
[6] The use of back lit, individually cut, letter signs are encouraged.

(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.

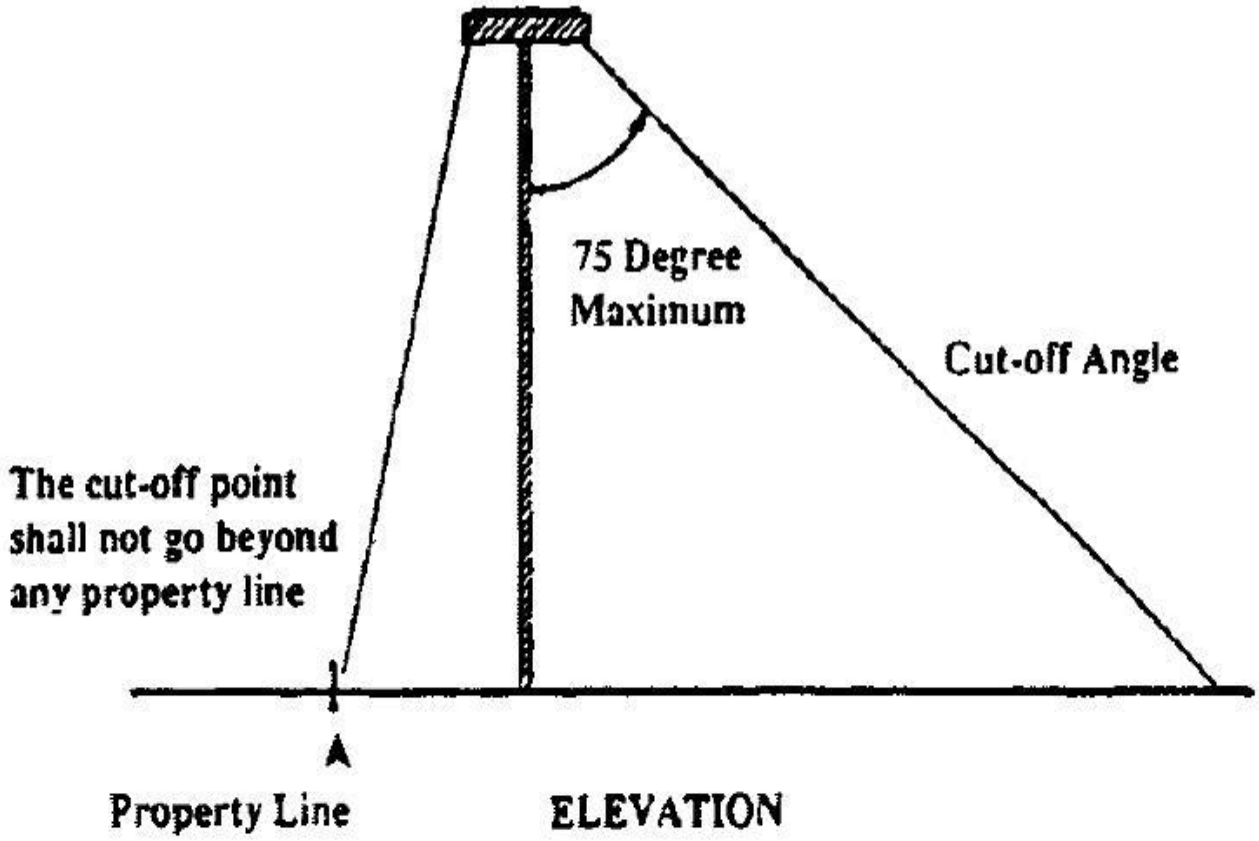
I. Parking lot lighting shall provide a minimum of two foot-candles of light at ground level.

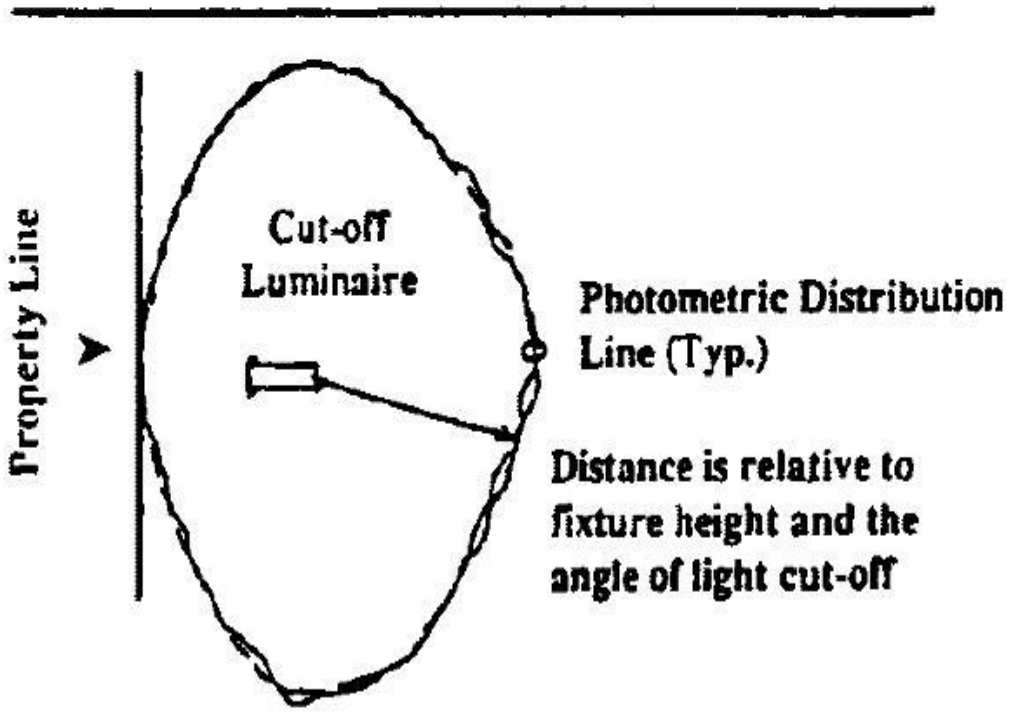
J. Parking lot entrances and intersections shall provide a minimum of five foot-candles of light at ground level.

K. Public spaces and sidewalks shall provide a minimum average of one foot-candle of light at ground level.

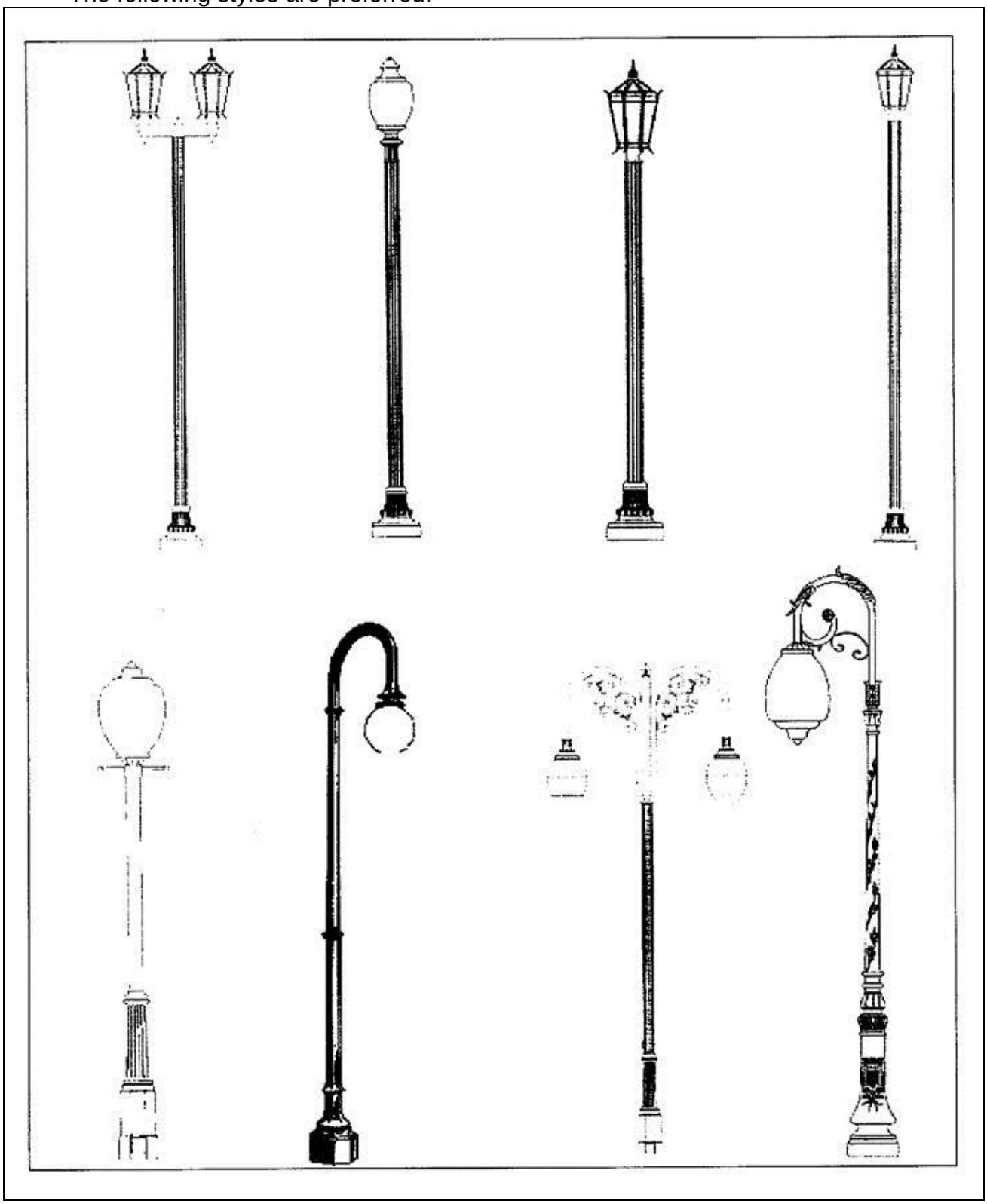
L. To prevent light pollution and impacts on abutting properties, the total cutoff of light should occur within the property lines of the parcel to be developed.

Design of External Lighting Fixtures


75 Degree
Maximum
Cut-off Angle
The cut-off point
shall not go beyond
any property line
Property Line
ELEVATION


Property Line
Cut-off
Luminaire
Photometric Distribution
Line (Typ.)
Distance is relative to
fixture height and the
angle of light cut-off

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 (title 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.

Figure: Example Exterior Facade



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.

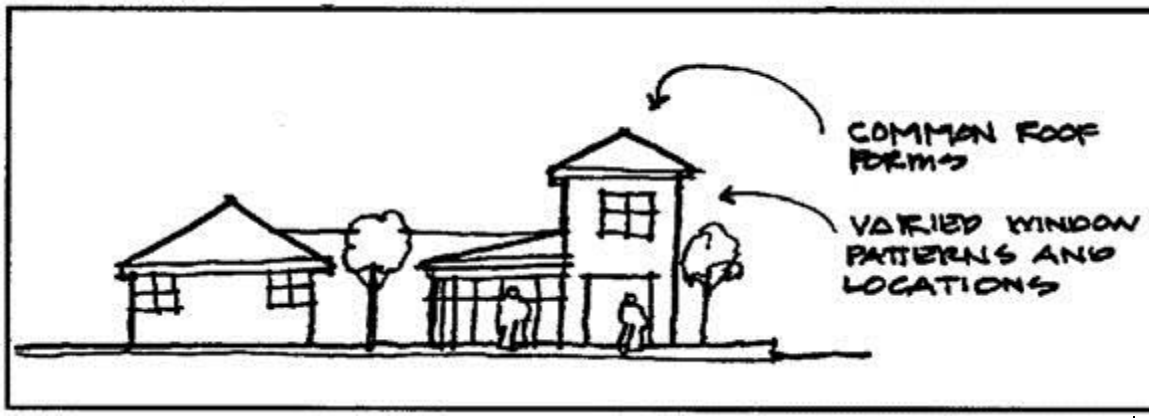
(3) A peaked roof forms with a minimum 6:12 roof pitch and gable ends oriented to the street whenever possible.

(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.

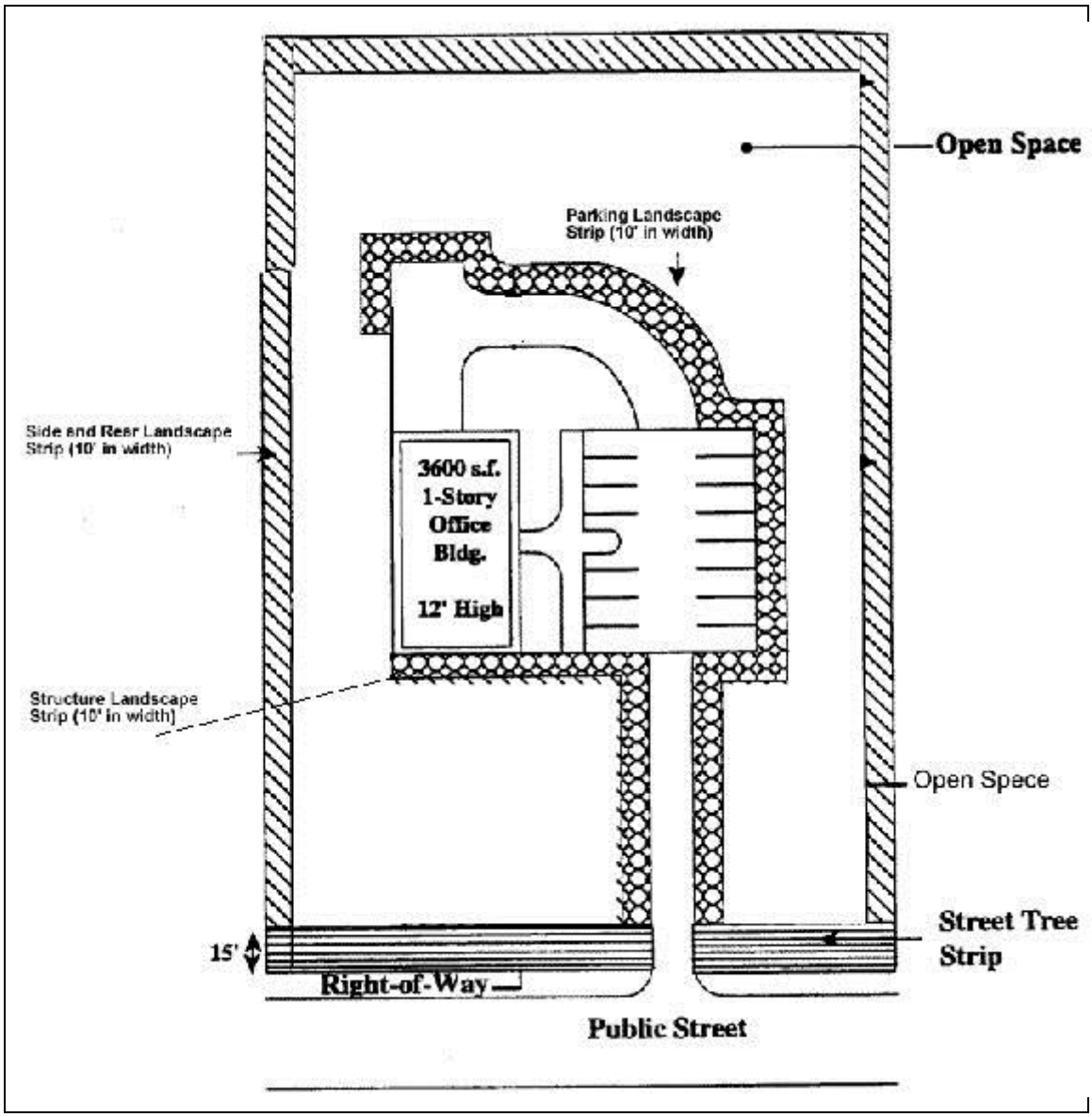
B. General Requirements:

(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:

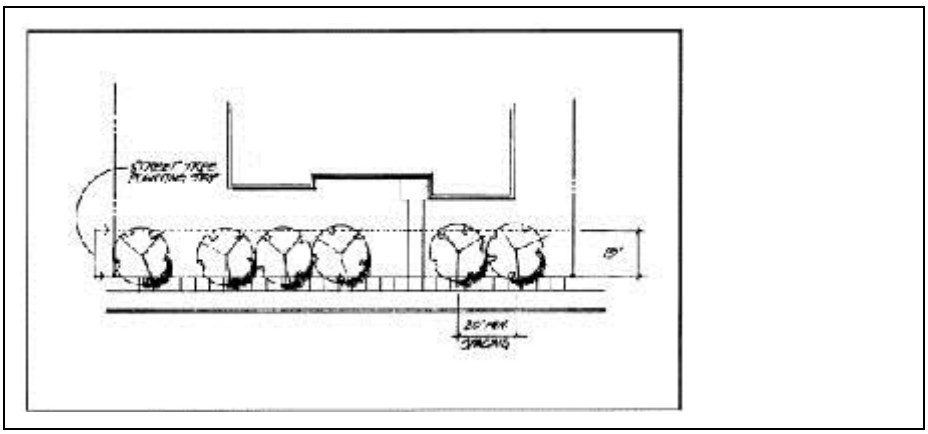


(1) Street Tree Landscape Area:

(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."

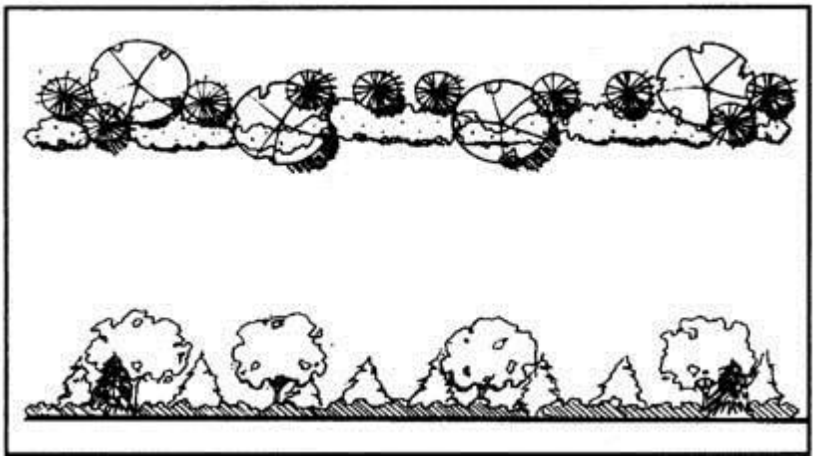
[2] Shrubs: One evergreen shrub per five feet of lot line, and one deciduous shrub per 10 feet of lot line.

[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;

Step 3:

Delineate building envelope and lot lines.

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

ARTICLE X -Open Space Development (§ 143-73 - § 143-82)

[Repealed 3-9-2021 Town Meeting by Amendment No. 1]

§ 143-73 (Reserved)

§ 143-74 (Reserved)

§ 143-75 (Reserved)

§ 143-76 (Reserved)

§ 143-77 (Reserved)

§ 143-78 (Reserved)

§ 143-79 (Reserved).

§ 143-80 (Reserved).

§ 143-81 (Reserved).

§ 143-82 (Reserved).

ARTICLE XI- Planned Development (§ 143-83 - § 143-89)

§ 143-83 Authorization.

Pursuant to the authority granted to the Planning Board under RSA 674:21 (Innovative Land Use Controls), as amended, the following regulations regarding Planned Developments are adopted.

§ 143-84 Purpose.

The purpose of these provisions relating to planned developments is to promote the efficient use of land and utilities by providing an optional pattern of site development different from one in which there is a division of land into lots for each building the intent of this article is to:

A. Provide for a unified & designed development;

B. Minimize the need for on-site parking and other land intensive infrastructure elements;

C. Allow multiple buildings on a single lot; and

D. Provide for the reduction in the requirements of this chapter.

§ 143-85 Types of planned developments.

Two types of planned developments are permitted:

A. PCD - Planned Commercial Developments

B. PID - Planned Industrial Developments

§ 143-86 General requirements.

In addition to the specific requirements for each type of planned development, all planned developments shall conform to the following general requirements:

A. The parcel shall be at least five acres in size and shall be subject to approval by the Planning Board under the provisions of the site plan review regulations;

B. The development may be served by one common parking area or individual parking areas serving groups of buildings;

C. The development shall be served by common exit and entrance areas;

D. Reduction in parking space requirements shall not exceed more than 20% of those required under normal application of requirements for the particular uses proposed when one common parking area is used;

E. The development shall be served by an adequate water and sewer system;

F. At least 10% of the land area shall be set aside as permanent open space;

G. There shall be a minimum of 100 feet separation between individual principal structures to ensure that emergency vehicle access is provided;

H. Utilities shall be placed underground where possible. This requirement may be waived if unfeasible and justification acceptable to the Planning Board is presented; and

I. Development ownership may be by condominium provided that a property owners association is established and membership in said association shall be mandatory for all property owners and made a required covenant in any deeds issued or passed. It shall provide voting and use rights in the common areas when applicable and may include tax liabilities of common open space areas, parking areas, or utility facilities. Articles of Association or Incorporation must be acceptable to the Planning Board and to Town Counsel and any other municipal, county, state agency, body, commission or department required by law to approve of the same.

§ 143-87 Special requirements; Planned Commercial Development (PCD).

In addition to the general requirements of this article a Planned Commercial Development shall conform to the following special requirements:

A. The ratio of the gross floor area of the building(s) to the total lot area shall not exceed 0.60; and

B. Uses other than commercial or offices may be permitted by the Planning Board if it can be shown that they are necessary for the operation of the those use(s); or, required for the support of the those use(s); or, have some other symbiotic relationship to the permitted use(s).

§ 143-88 Special requirements; Planned Industrial Development (PID).

In addition to the general requirements of this article a Planned Industrial Development shall conform to the following special requirements:

A. The total number of establishments in the development shall not exceed the number of establishments which could be developed under normal application requirements of the district;

B. The permitted uses shall be limited to manufacturing or service industrial uses with the total use completely within the building(s); and

C. Non-Industrial uses may be permitted if shown that they are; necessary for the operation of the industrial use(s); or, required for the support of the industrial use(s); or, have some other symbiotic relationship to the industrial use(s).

§ 143-89 Density and dimensional changes.

Pursuant to the provisions of RSA 674:21 (Innovative Land Use Controls), as amended, the Planning Board, at its sole discretion, may reduce the density and dimensional requirements for a Planned Development based on the following:

A. That the reduction of the requirement(s) will result in a better development for the town;

B. Any reduction in the parking area beyond what is permitted under § **143-86**(D) shall be offset by an equivalent amount of land set aside in common open space, or as may be determined by the Planning Board; and

C. All sections of the site plan regulations or the zoning ordinance which are not superseded by this provision shall be applicable.

ARTICLE XII - Impact Fees (§ 143-90 - § 143-101)

[Amended 3-13-2001 by Amendment No. 1]

[Sections §143-91-§143-101, amended to be "Reserved", and adopt RSA 674:21, Innovative Land Use Controls, V, as amended, 3-12-2013 Town Meeting Amendment No.10]

§ 143-90 Authority.

March 12, 2013 the Town of Pembroke voted to adopt the provisions of RSA 674:21, Innovative Land Use Controls, V, as amended. The Planning Board is hereby authorized to assess impact fees, in accordance with the RSA 674:21.

§ 143-91 (Reserved)

§ 143-92 (Reserved)

§ 143-93 (Reserved)

§ 143-94 (Reserved)

§ 143-95 (Reserved)

§ 143-96 (Reserved)

§ 143-97 (Reserved)

§ 143-98 (Reserved)

§ 143-99 (Reserved)

§ 143-100 (Reserved)

§ 143-101 (Reserved)

ARTICLE XIII - Non-Conforming Uses, Structures and Lots (§ 143-102 - § 143 107)

§ 143-102 Non-conformity by initial enactment or amendment.

The provisions of this article apply to non-conforming uses, structures, and lots as created by the initial enactment of this chapter or by any subsequent amendment. It is the purpose of this chapter to discourage the perpetuity of non-conforming uses whenever possible. The lawful use of any building or land existing at the enactment of this chapter may be continued, except as otherwise provided herein.

§ 143-103 Lot of record.

[Amended 3-15-2003 Town Meeting by Amendment No. 1]
[Amended 3-11-2014 Town Meeting by Amendment No. 11]

Any non-conforming lot of record, as defined in § **143-8**, may be built upon provided the following conditions are met:

A. The lot of record complied with the minimum area, frontage, width, and depth requirements, if any, of the Zoning Ordinance then in effect at the time it was created; and

B. If no zoning ordinance were in effect at the time of the lot creation, the lot of record must meet the current zoning setback and height restrictions of the applicable zone; and **[Amended 3-8-2016 Town Meeting by Amendment No. 4]**

C. The lot of record has frontage on a Class V, or better, road. **[Amended 3-14-2006 Town Meeting by Amendment No. 3][Amended 3-11-2014 Town Meeting by Amendment No. 11][Amended 3-8-2016 Town Meeting by Amendment No. 4]**

§ 143-104 Non-conforming uses of land.

Where, at the time of passage of this chapter, a lawful use of land exists which would not be permitted by the regulations imposed by this chapter, the use may be continued so long as it remains otherwise lawful, provided that:

A. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter;

B. No such non-conforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter;

C. If any such non-conforming use of land ceases for any reason for a period of more than 12 consecutive months or for 24 months during any three year period, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located; and

D. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such non-conforming use of land with the exception of accessory structures associated with a one-family house provided they comply with all other applicable Town ordinances and regulations.

§ 143-105 Non-conforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height or yards, its location on the lot, or other requirements concerning the structure, the structure may be continued so long as it remains otherwise lawful, subject to the following:

A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity but any structure or portion thereof may be altered to decrease its non-conformity;

B. A building or structure non-conforming either in terms of use or bulk, totally or partially destroyed by fire or other cause, may be rebuilt if restored within two years and if rebuilt in kind (following the original footprint). Restoration shall not place the structure in greater non-conformity. The structure may be rebuilt within the original building footprint; and

C. Should such structure be intentionally moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

§ 143-106 Repairs and maintenance.

On any non-conforming structure or portion of a structure containing a non-conforming use ordinary repairs may be made subject to the following provisions: if a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and also declared by any duly authorized official to be unsafe or unlawful by reason of physical condition it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located. Any duly authorized official charged with protecting the public safety may rightfully order a structure to be secured to a safe condition.

§ 143-107 Change.

Any non-conforming use of a structure may be changed to another non-conforming use, provided:

A. The changed use is not a substantially different use, except as provided in paragraph B. below and approval for the change is granted as a special exception by the Zoning Board of Adjustment;

> For purposes of this section a substantially different use is a use which by reason of its normal operation would cause readily observable differences in patronage, service, sight, noise, employment or similar characteristics from the existing non-conforming use or from any permitted use in the district under question.

B. Any non-conforming use which has been once changed to a permitted use or another non-conforming use which is not a substantially different use shall not again be changed to another non-conforming use; and

C. Any non-conforming lot which has come into conformity shall not again be changed to a non-conforming lot.

ARTICLE XIV - Zoning Board of Adjustment, Variances, and Special Exceptions (§ 143-108 - § 143-120.2)

In accordance with the provisions of RSA 673:1, and 673:3, as amended, a Zoning Board of Adjustment consisting of five residents of the Town of Pembroke shall be established. Members shall be appointed by the Board of Selectmen.

§ 143-109 Alternate members to Zoning Board of Adjustment.

In accordance with the provisions of RSA 673:6, as amended, the Board of Selectmen shall appoint up to a maximum of five alternate members to the Zoning Board of Adjustment.

§ 143-110 Zoning Board of Adjustment procedures.

The Zoning Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this chapter and the provisions of RSA 676:1, as amended.

§ 143-111 Duties and powers of Zoning Board of Adjustment.

The Zoning Board of Adjustment shall have the following powers:

A. Appeal of Administrative Decision: To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Code Enforcement Officer in the enforcement of this chapter (Administrative Appeal of a Decision.); **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

B. Special Exceptions: To hear and decide, in appropriate cases and subject to appropriate conditions and safeguards, special exceptions to the terms of this chapter upon which the Board is required to pass under this chapter; **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

C. Variance: To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done; **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

D. Equitable Waiver of Dimensional Requirements: To hear and decide applications for equitable waivers from dimensional requirements pursuant to RSA 674:33-a; **[Added 3-11-2008 Town Meeting by Amendment No. 6]**

E. To act and hear appeals, as per RSA 673:1 (V), as amended, as the Building Code Board of Appeals; **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

F. To act and hear appeals, as per RSA 676:5(III), as amended, of any decision made by the Planning Board regarding specific terms of the zoning ordinance; and **[Added 3-12-1996 Town Meeting by Amendment No. 6, Amended 3-11-08 Town Meeting by Amendment No. 6]**

G. To issue a certificate of approval which must accompany an application for a local junkyard license, as per RSA 236:115. **[Added 3-11-2008 Town Meeting by Amendment No. 6]**

§ 143-112 Appeal of a decision made by the Code Enforcement Officer.

Editor's Note: This section title was amended 3-12-1996 by Amendment No. 7 to add the term "Code Enforcement Officer."

A. To act and hear appeals pursuant to RSA 674:33, I from any order, requirement, determination or decision made by the Code Enforcement Officer or other administrative official in the enforcement of zoning. **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

B. The Board shall hear and decide appeals de novo and review on appeal any order, requirement, decision, or determination made by the Code Enforcement Officer in the enforcement or application of this chapter. Upon such appeal, the Board may, in accordance with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify any such order, requirement, or decision, as ought to be made.

§ 143-113 Special exceptions.

The Board shall have the power to hear and decide on application for special exceptions. In applying for a special exception, the applicant need not demonstrate hardship, since the basis for the action is of general benefit to the Town as a whole. In granting a special exception the Board, with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

A. The use requested is listed in the Table of Use Regulations, § **143-19**, as a special exception in the district for which the application is made;

B. The requested use is essential or desirable to the public convenience or general welfare;

C. The requested use will not impair the integrity or character of the district and adjoining zones, nor be detrimental to the health, morals, or general welfare. The proposed use shall not create excessive noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or nuisance to the neighborhood; **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

D. That the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely;

E. That no factual evidence is found that property value in the district will be adversely affected by such use;

F. That there will be no excessive negative impacts from the traffic generated by the proposed use; and **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

G. That adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use;

H. That there are no valid objections from abutting property owners based on demonstrable fact;

I. That the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.

J. (Reserved) **[Removed 3-11-2008 Town Meeting by Amendment No. 6]**

§ 143-114 Variances.

[Amended 3-15-2003 Town Meeting by Amendment No. 2; 3-8-2005 Town Meeting by Amendment No. 4; 3-12-2013 Town Meeting Amended in its entirety Amendment No. 8]

Variances shall be as defined in RSA 674:33, as amended.

(1) The variance will not be contrary to the public interest.

(2) The spirit of the ordinance is observed

(3) Substantial justice is done.

(4) The value of the surrounding property will not be diminished.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

(A) For the purposes of this paragraph “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

(i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: and

(ii) The proposed use is a reasonable one.

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

§ 143-115 Other requirements.

The granting of any appeal by the Board shall not exempt the applicant from any provision of this chapter not specifically ruled upon by the Board or specifically set forth as exception in this particular case from a provision of this chapter. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the user increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the Board in authorizing a special exception or variance without appealing to the Board as a new case over which the Board shall have complete administrative power to deny, approve, or modify.

§ 143-115.1 Equitable Waiver of Dimensional Requirements

[Added 3-11-2008 Town Meeting by Amendment No. 6]

A. Equitable Waivers may be granted only from physical layout, mathematical or dimensional requirements and may not be granted from use restrictions.

B. The ZBA may grant a waiver only if each of the four findings as outlined in RSA 674:33-a (I) are made.

(1) That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value;

(2) That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner, owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority;

(3) That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property; and

(4) That due to the degree of past construction or investment made in ignorance of the facts constitution the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation by corrected.

C. If it can be demonstrated that the violation has existed for ten years or more and that no enforcement action was commenced against the violation during that time by the municipality or by any person directly affected, only the findings in Section 143-115.1, B (3) and (4) need to be met.

D. Once a waiver is granted, the property is not considered to be a nonconforming use and the waiver does not exempt future use, construction, reconstruction, or additions on the property from full compliance with the ordinance.

E. The application and hearing procedures are governed by RSA 676:5-7; rehearings and appeals are governed by RSA 677:2-14.

§ 143-116 Expiration of approvals.

Variances and special exceptions shall expire in accordance with RSA 673:33.I-a as amended.
[Amended 3-11-2008 Town Meeting by Amendment No. 6][Amended 3-10-2015 Town Meeting Amendment No. 2]

§ 143-117 Conditional approvals.

The Board, in granting a special exception or variance, may impose such conditions or safeguards it deems appropriate.

§ 143-118 Certain representations deemed conditions.

Representations made at a public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulation shall be deemed as to be conditions of approval upon such special exception or variance.

143-119 Public hearing.

Whenever an application is made to the Zoning Board of Adjustment, the Board shall hold a public hearing pursuant to the requirements of RSA 676:7, as amended. **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

§ 143-120 Decision.

Following the public hearing of an appeal, the Zoning Board of Adjustment shall, in accordance with RSA 676:3, as amended, notify the applicant in writing of the decision and have the decision available for public inspection within 144 hours of such vote. **[Amended 3-11-2008 Town Meeting by Amendment No. 6]**

§ 143-120.1 Motion for rehearing.

[Added 3-12-1996 Town Meeting by Amendment No. 8]

A. Any order or decision of the Zoning Board of Adjustment may be appealed by any party to the action or proceedings, or any person directly affected thereby, by applying for a rehearing. The request for a rehearing may be in respect to any matter determined in the action or proceeding, or covered or included in the order; and the Board of Adjustment may grant such rehearing if, in its opinion, good reason therefore is stated in the motion. For purposes of this section the appeal period for a rehearing shall be as specified by RSA 677:2, as amended.

B. A motion for rehearing made under Part A of this Section shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the

Board of Adjustment shall be taken unless the appellant shall have made application for rehearing as provided for in Part A of this Section; and, when such application shall have been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a Court unless the Court, for good cause shown, shall allow the appellant to specify additional grounds.

C. Upon the filing of a motion for rehearing, the Board of Adjustment shall either grant or deny the application, or suspend the order or decision complained of pending further consideration. If the Board takes no action on the motion within the appeal period as specified by RSA 677:3, as amended, or does not request an extension of time from the appellant, the appellant can assume the motion has been denied. Any order of suspension may be upon such terms and conditions as the Board of Adjustment may prescribe.

D. Pursuant to RSA 676:6, as amended, the appeal shall stay any order or other enforcement action until such time as the appeal has been acted on.

§ 143-120.2 Appeal from decision on motion for rehearing.

Any person aggrieved by any order or decision of the Board of Adjustment may apply to the Superior Court, within the appeal period as specified by RSA 677:4, as amended, by sworn petition, setting forth that such decision or order is illegal or unreasonable, in whole or in part, and specifying the grounds upon which the same is claimed to be illegal or unreasonable.

ARTICLE XV- Enforcement and Penalties (§143-121 - §143-129)

§ 143-121 Administrative official.

[Amended 3-15-2003 Town Meeting by Amendment No. 3]

A. It shall be the duty of the Board of Selectmen or appointed Code Enforcement Officer to administer and enforce the provisions of this chapter.

B. It shall be the duty of the Board of Selectmen or appointed Code Enforcement Officer to enforce the New Hampshire Building Code, as amended, under the authority granted pursuant to RSA 674:51. The New Hampshire Building Code shall be available for review in the office of Planning and Land Use.**[Amended 3-11-2014 Town Meeting by Amendment No. 4]**

C. It shall be the duty of the Board of Selectmen or the appointed Code Enforcement Officer to enforce the New Hampshire Building Code per RSA 155:A as amended. **[Added 3-9-2004 Town Meeting by Amendment No. 3][Amended 3-11-2014 Town Meeting by Amendment No. 5]**

§ 143-122 Permit required.

[Amended 3-15-2003 by Amendment No. 4; 3-9-2004 by Amendment No. 3; 3-17-2012 Town Meeting by Amendment No. 5; 3-12-2013 Amendment No. 7]

A. Buildings and structures: It shall be unlawful for any person to erect, construct, reconstruct, demolish, or alter a structure as defined by the New Hampshire Building Code, RSA 155:A, as amended, without applying for and receiving from the Code Enforcement Officer a building permit.**[Amended 3-11-2014 Town Meeting by Amendment No. 6]**

B. Change in use or modification of buildings and structures: It shall be unlawful for any person to change the use or lot coverage, or extend or displace the use of any building, structure, or lot beyond what is allowed for that zoning district without applying for and receiving all applicable approvals from the Zoning Board of Adjustment and/or the Planning Board.

C. Approvals required prior to building permit: No building permit shall be issued until all other required approvals are secured by the applicant. Such approvals may include, but shall not be limited to, special exception, variance, special use permit, site plan approval, or subdivision approval. Verification of compliance with such approvals and all associated conditions imposed pursuant to the approvals and with all provisions of the Zoning Ordinance, Site Plan Review Regulations, Subdivision Regulations, and Building Code shall be made by the Code Enforcement Officer prior to issuance of a building permit.

D. All building permit applications shall be accompanied by a completed Department Approval form signed by the applicant and all required departments.

§ 143-123 Previously approved permit.

Nothing in this chapter shall require changes in the plans, construction and/or use of any structure and/or lot for which a lawful permit has been issued or otherwise lawfully authorized within one year before the effective date of this chapter, or any revision thereof, provided such construction or use shall be actively prosecuted,

within 60 days and completed within one year of the effective date of this chapter or any revision thereof.

§ 143-124 Building permit fees.

Building permit fees shall be as established by the Board of Selectmen.

§ 143-125 Building permit time limits.

Any work for which a building permit has been issued by the Code Enforcement Officer shall be actively pursued within 180 days and completed within one year of the date of the issuance of the building permit. Any building permit issued for a project which is actively pursued for one year may be extended at the discretion of the Code Enforcement Officer. **[Amended 3-17-2012 Town Meeting by Amendment No. 6]**

§ 143-126 Violations.

The Code Enforcement Officer shall serve notice of violation and order to any owner or person responsible for the erection, construction, reconstruction, conversion, alteration of a structure or change in use, increase in intensity of use, or extension or displacement of use of any structure or lot in violation of any approved plan, information or drawing pertinent thereto; or in violation of a permit issued under the provisions of this chapter and such order shall direct the immediate discontinuance of the unlawful action, use or condition and the abatement of the violation. Any owner, who has been served with a notice and ceases any work or other activity, shall not leave any structure or lot in such a condition as to be a hazard or menace to the public safety, health, morals or general welfare. **[Amended 3-17-2012 Town Meeting by Amendment No. 7]**

§ 143-127 Prosecution of violation.

If the notice of violation or order is not complied with promptly, the Selectmen shall institute the appropriate action or proceeding at law to prevent any unlawful action, use or condition and to restrain, correct, or abate such violation.

§ 143-128 Penalty.

Any person, firm, or corporation violating any of the provisions of this chapter shall for each violation, upon conviction thereof, pay a fine not to exceed the maximum provided by RSA 676 17, as amended. Each day that a violation is permitted to exist after notice to remove the same is made shall constitute a separate offense.

§ 143-129 Enforcement of orders.

Once enforcement of an order has commenced by the Board of Selectmen, either through a cease and desist order or filing in court, the Zoning Board of Adjustment shall have no authority over that order.

ARTICLE XVI- Zoning Maps (§ 143-130)

§ 143-130 Zoning Maps.

Editor's Note: The Zoning Maps are included at the end of this chapter.

ARTICLE XVII - Growth Management Ordinance (§ 143-131 - § 143-139) [Added 3-9-2004 Town Meeting by Amendment No. 4; Amended 3-14-2006 Town Meeting by Amendment No. 4]

§ 143-131 Authority and purpose.

This article is enacted pursuant to the authority granted by NH RSA 674:22. The purposes of the Growth Management Ordinance are as follows:

Removed by the Pembroke Planning Board 3-9-2011 Town Meeting.

ARTICLE XVIII. SPECIAL USE PERMITS (§ 143-140 - § 143-149)

[Added 3-9-2010 Town Meeting by Amendment No. 6]

§ 143-140 Purpose of a Special Use Permit.

A. The purpose and intent of a special use permit is to allow certain uses that are not normally permitted under conventional zoning provisions. Specifically authorized special uses appear in Sections 143-44 Agricultural Retail Outlets, 143-53 Driveways, 143-68 Aquifer Conservation (AC)

District, 143-72 Wetland Protection (WP) District, Article X Open Space Subdivision, and by any other Section when specified in the Zoning Ordinance. A special use shall be approved if the application is found to be in compliance with the Standards of Review in Section 143-144. Further conditions may be placed on the special use permit by the Planning Board to ensure that the special use will have a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the Town.

B. No structure, building or land requiring a special use permit shall be used, constructed, altered or expanded unless a special use permit specifically required by this article has been granted by the Planning Board.

C. Any use that was lawfully established prior to the adoption, extension or application of this article and is now permitted by this article subject to a special use permit may continue in the same manner and to the same extent as conducted prior to said adoption or extension of this article. A special use permit shall be secured from the Planning Board before the use or structure or building in which said use is conducted may be altered, added to, enlarged, expanded or moved from one location to another on the lot on which said use is located.

§ 143-141 Planning Board to Administer.

The authority to grant and administer special use permits shall be vested in the Planning Board. A special use permit shall automatically expire if the conditions attached to the permit are not met, and shall be revoked if the conditions attached to the permit are violated. In addition, a special use permit that was granted in connection with a subdivision or site plan approval shall automatically expire when such approval expires, and shall be automatically revoked if such approval is revoked.

§ 143-142 Application and Review Procedure.

An application for a special use shall be initiated by filing with the Planning Board for an application for a special use permit. The following procedures shall apply to the processing of such application.

A. Procedure if Subdivision or Site Plan Approval Also Required

Where other required development approvals for a special use include subdivision or site plan approval by the Planning Board, the application and review procedure for a special use permit shall be made concurrently or in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development. The respective checklists must be followed for submission.

B. Procedure if Subdivision or Site Plan Approval Not Required

Where no subdivision or site plan approval would otherwise be required for the special use, the application and procedural requirements of the Site Plan Regulations shall be applied to the application and processing of special use permits with respect to content of applications, requirements for public notice, hearings and timing of decisions by the Planning Board. The respective checklists must be followed for submission.

§ 143-143 Burden of Persuasion.

The applicant bears the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the use, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the ordinance.

§ 143-144 Standards of Review.

In reviewing an application of a special use permit the Planning Board shall consider the following information in its deliberation, including but not limited to, as applicable to the case:

A. Specific authorization for the special use in 143-44 Agricultural Retail Outlets, Sections 143-53 Driveways, 143-68 Aquifer Conservation (AC) District, 143-72 Wetland Protection (WP) District, Article X Open Space Subdivision, and by any other Section when specified in the Zoning Ordinance;

B. The compliance of the development plan with the specific standards for such use contained in the Ordinance;

C. The results of any special investigative or scientific studies prepared in association with the proposed development;

D. Special reports or analyses of the project or its impacts prepared by the Town's departments, its consultants, its boards or commissions;

E. Other considerations by the Board in order to make an informed decision; and

F. Testimony and evidence introduced at the public hearing on the application.

§ 143-145 Hearing and Decision.

The Planning Board shall issue a special use permit, if it finds, based on the information and testimony submitted with respect to the application, that:

A. The use is specifically authorized by Sections 143-44 Agricultural Retail Outlets, 143-53 Driveways, 143-68 Aquifer Conservation (AC) District, 143-72 Wetland Protection (WP) District, Article X Open Space Subdivision, and by any other Section when specified in the Zoning Ordinance, as a special use;

B. If completed as proposed by the applicant, the development plan in its proposed location will comply with all requirements of this Article, and with the specific conditions or standards established in this ordinance for the particular use;

C. The use will not materially endanger the public health or safety;

D. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located and will not impact the abutting properties greater than the impacts of other uses permitted in the underlying Zone;

E. The use will not have a substantial adverse impact on highway or pedestrian safety; and

F. The use will not have a substantial adverse impact on the natural resources of the Town.

§ 143-146 Conditions of Approval.

In granting a special use permit, the Planning Board may attach reasonable conditions to its approval, including but not limited to performance guarantees,

screening, best management practices, performance standards as appropriate, limitations on structures and lot coverage, and the phasing of a development, where such conditions are shown to be necessary to further the objectives of this ordinance or the master plan, or which would otherwise allow the general conditions of this Article to be satisfied. Representations made at a public hearing or in material submitted to the Planning Board by an applicant to obtain a special use permit shall be deemed conditions of the issuance of the permit. All other conditions of approval shall be stated in writing in the permit. The Planning Board may require that such conditions be annotated on a site plan or subdivision plan.

§ 143-147 Denial of Application.

In the event that an application is denied by the Planning Board, a resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

§ 143-148 Revocation.

In the event of a violation of any of the provisions of these regulations or amendments thereto or in the event of a failure to comply with any prescribed condition of approval or stipulations placed upon such approval, the Code Enforcement Officer may suspend any special use permit immediately and shall notify the Planning Board. The Planning Board shall set a date for a hearing before it to determine if such suspensions shall be lifted or if the special use permit shall be revoked. In the case of a revocation of a special use permit, the determination of the Planning Board shall be final, unless recourse is sought in a court of competent jurisdiction.

§ 143-149 Appeals.

Any persons aggrieved by a Planning Board decision on a special use permit may appeal that decision to the Superior Court as provided in the manner provided by RSA 677:15. A Planning Board decision on the issuance of a special use permit cannot be appealed to the Zoning Board of Adjustment. (RSA 676:5, III).