

# TOWN OF PLAISTOW NEW HAMPSHIRE

**2017**

## ZONING ORDINANCE

*(Includes Amendments Approved at the March 2017 Town Meeting)*



**Chapter 220  
ZONING**

**[HISTORY: Adopted by the Town Meeting of the Town of Plaistow 3-14-1956, as amended through 3-14-2000. Subsequent amendments noted where applicable.]**

**GENERAL REFERENCES**

Building construction — See Ch. 31.  
 Site plan review — See Ch. 230.  
 Subdivision of land — See Ch. 235.

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**ARTICLE I**  
**Preamble**

**§ 220-1. Authority and purpose.**

In accordance with and subject to Chapters 674, 675, 676, and 677 of the New Hampshire Revised Statutes Annotated, 1987, as amended, and for the purpose of promoting the health, safety, morals, prosperity, convenience and general welfare, as well as for the promotion of efficiency and economy in the process of development of the Town of Plaistow, New Hampshire, and to secure safety from fire, panic, and other dangers, provide adequate areas between buildings and various rights-of-way, preserve the rural charm now attached to the town, and promote good civic design and arrangement, the wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means, now, therefore, the following chapter is hereby enacted by the voters of the Town of Plaistow, New Hampshire, in official meeting convened.

## **ARTICLE II**

### **Definitions**

#### **§ 220-2. Definitions.**

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this chapter. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "used" shall include "arranged," "designed," "constructed," "altered," "converted," "rented," "leased," or "intended to be used"; and the word "shall" is mandatory and not optional.

#### **ABANDONMENT**

A. The visible or otherwise apparent intention of an owner to discontinue the use of a building or premises or the removal of characteristic equipment or furnishings used in the performance of any nonconforming use without their replacement by similar equipment or furnishings.

B. The replacement of any nonconforming use or building by a conforming use or building.

**ACCESSORY USE OR STRUCTURE** — A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

**AQUIFER** – A geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water. [Added ATM 2015]

**BED AND BREAKFAST FACILITY** — A building, other than a hotel or motel, where lodging and meals are provided for compensation. Individual rooms shall not have cooking facilities. A facility may not have more than 8 rooms or suites for rent at any one time and the length of the rental shall not exceed 10 days. [Added 3-13-2012 ATM by Art. P-12-20; Amended 3-12-2013 ATM by Art. Z-13-17]

**BOARD OF ADJUSTMENT** — The Zoning Board of Adjustment of the Town of Plaistow.

**BUILDING HEIGHT** — The vertical distance measured from the mean level of the ground surrounding the building to the highest point of the building, but not including chimneys, spires, towers, silos, tanks, and similar projections.

**BUILDING, PRINCIPAL** — A structure in which is conducted the principal use of the site on which it is situated. In any residential district, any dwelling shall be deemed to be a principal building on the lot on which the same is located.

**BUSINESS** — An enterprise/establishment wherein goods and/or services are provided in exchange for the delivery or promise to deliver money, goods, services, or other things of value as compensation for the goods and/or services provided. A business is limited to, characterized by, and defined by the following types of enterprise/establishment:

A. **HOME BUSINESS/HOME OCCUPATION** — Any use as permitted in Article X which is clearly incidental and subordinate to the principal residential use and does not change the character thereof. Anything of retail, commercial or industrial use will not be considered as a home business/home occupation unless specifically listed in Article X. Garage/yard sales, garden produce selling and similar seasonal or temporary activities will not be considered as

a home occupation.

B. RETAIL BUSINESS — A business enterprise where goods and/or services are sold directly to the ultimate consumer.

C. WHOLESALE BUSINESS — A business enterprise where goods are sold in quantity for purposes of resale.

D. PERSONAL SERVICE BUSINESS — A business enterprise which holds the necessary state and local permits to operate an establishment in which state-qualified practitioners provide individuals with such manual or mechanical types of treatment to external surfaces of the human body as barbering, cosmetology, esthetics, electrology, body massage and physical therapy. [Amended 2-10-2001 ATM by Art. P-29]

E. BUSINESS OFFICE — A room or cluster of rooms where an individual or a group practice takes place, such as finance, real estate, and insurance.

F. PROFESSIONAL OFFICE — A room or cluster of rooms where an individual or a group practice takes place which is characterized by licensing in a particular study or science, such as human medicine, dentistry, law, and engineering.

CERTIFICATE OF USE AND OCCUPANCY — A formal document issued by the Building Inspector which indicates that the construction and/or reconstruction of components in or on a building and/or the type of activity proposed to take place within the building meets all necessary state and local inspections and regulations.

CHANGE OF USE — Change of use is marked by an alteration, modification, transformation, or substitution to either structural elements or the type of activity in an existing developed property. In the case of commercial and industrial properties, a new site plan must be reviewed and/or approved before a certificate of occupancy can be issued allowing such change of use to take place and signaling its compliance with all applicable Town requirements.

CONTRACTOR'S STORAGE YARD — A site upon which heavy vehicles and equipment (such as bulldozers, front-end loaders, and back-hoes) and materials, supplies and forms, used by professional contractors in construction, land clearing, site work, utilities, landscaping or other similar activities are stored, including waste disposal containers. Land upon which any of the above items are temporarily stored on-site during the course of an active construction project shall not be considered a contractor's storage yard. [Added 3-12-2013 ATM by Art. Z-13-9]

COVERAGE — That percentage of the plot or land area covered by the principal and accessory uses or structures and surfaced or paved (pervious or impervious) area. [Amended 3-9-2010 ATM by Art. P-10-S]

DRIVEWAY — A single access to and from a public way located within the required frontage of the proposed lot with separate entrance and exit lanes, except in the case of dwellings, in which case a driveway need not have separate entrance and exit lanes unless required as a condition of a special permit. (Note: A driveway permit is required from the Highway Supervisor or State Highway Department; see their regulations.)

DWELLING — Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.

DWELLING UNIT — One or more rooms arranged for the use of one or more individuals living

together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

**ESSENTIAL SERVICES** — The erection, construction, alteration or maintenance by public utilities or Town or other governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, including 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 reasonably necessary for the furnishing of adequate service by such public utilities or Town or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

**FRONTAGE** — That portion of a lot bordering on a highway, street or public right-of-way, Class V or better.

**GASOLINE/FUELING STATION** – Means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purpose of retail sales. [Added ATM 2015]

**GROSS FLOOR AREA** — The total floor area designated for occupancy and use, including basement and other storage areas; provided, however, that stairways, elevator wells, rest rooms and lounge areas, common hallways and building service areas shall not be included in the computation of such floor area. Pertaining to a permit for home occupation, gross floor area excludes attic and garage.

**GROUNDWATER** – The subsurface water that occurs beneath the water table in soils and geologic formations. [Added ATM 2015]

**HAZARDOUS MATERIAL** — Any material listed on the Environmental Protection Agency (EPA) Community Right-to-Know List, Hazardous Substance List (HSL) or Extremely Hazardous Substance List (EXHSL) as updated.

**HOME PRODUCE AND PRODUCTS** — Everything of an agricultural nature grown or produced on the property of the resident of the household.

**IMPERVIOUS** – Means does not readily permit the infiltration of water. [Added ATM 2015]

**IMPERVIOUS SURFACE** – Means a surface through which regulated substances cannot pass when spilled. [Added ATM 2015]

**INDUSTRY (LIGHT)** — Enterprises using processed or previously manufactured materials engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products. Light industry is capable of operation in such a manner as to eliminate at the property border the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, harmful wastes, etc. Traffic impact on surrounding residential neighborhoods must be minimal. A machine shop is included in this category. Also included is the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, fish tanks and supplies, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature. Warehousing, wholesaling, and distribution of the finished products produced at the site is allowed as an ancillary use. "Light industrial" shall not include uses such as mining and extracting

industries, petrochemical industries, rubber refining, primary metal, concrete, cement or asphalt manufacture or related industries. Light Industrial uses not contained in the above definition must be judged to be compatible with the surrounding residential neighborhoods prior to being allowed, and not being a prohibited use as defined in 220-5 of this ordinance. Any industrial use that doesn't meet the definition of light industry will be considered heavy industry. [Amended 3-10-2009 ATM by Art. P-09-27]

**INDUSTRY (HEAVY)** All uses not defined as light industry and judged by the Planning Board not to be a prohibited use as defined in 220-5 of this ordinance. [Added 3-10-2009 ATM by Art. P-09-27]

**INDUSTRY (SMALL)** A light industry involved in assembling components and/or parts packaging which has its operations done entirely in a building not to exceed 10,000 square feet. Building size is inclusive of primary building and all accessory use buildings. Truck terminals are specifically excluded.

**JUNK** — Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, and waste; two or more unregistered or dismantled or wrecked motor vehicles, or parts thereof, located on the premises for a period exceeding 60 days; iron, steel, and other old or scrap ferrous material; old or scrap nonferrous material; and other secondhand articles, the accumulation of which is detrimental or injurious to the public welfare.

**JUNKYARD** — A land area, with or without buildings on it, which is used for the storage, maintenance, purchase, or sale of junk. "Junkyard" includes garbage dumps and sanitary fills but does not include land areas used by motor vehicle dealers who are duly registered as such by the State of New Hampshire.

**OUTDOOR STORAGE** – The storage of materials where they are not protected from the elements by a roof, walls, or a floor with an impervious surface. [Added ATM 2015]

**LOT** — A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory uses or structures or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this chapter.

**LOT OF RECORD** — Any lot a deed to which has been recorded in the office of the Rockingham County Registry of Deeds, in accord with the subdivision regulations in effect at the time of recording.

**MANUFACTURED HOUSING** — Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length or, when erected on site, is 320 square feet or more and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. The structure must be in compliance with the current construction and design requirements of the United States Department of Housing and Urban Development in order to be termed "manufactured housing" for purposes of this chapter.

**MANUFACTURED HOUSING PARK** — A parcel of land under single or common ownership or control which contains or is designed, laid out, or adapted to accommodate two or more manufactured houses. Premises used solely for storage or display of manufactured housing are

excluded.

**MANUFACTURED HOUSING SPACE** — A plot of ground within a manufactured housing park designed to accommodate one manufactured housing unit.

**MOBILE HOME** — A single-family, non-motorized habitation designed, after fabrication, for transportation on streets and highways on its own wheels and for arrival at the site where it is to be occupied as a habitation which is complete and ready for occupancy except for minor and incidental unpacking and assembly operations such as location on blocks or permanent foundations and connections to utilities. A mobile home which meets specific and current construction and design requirements of the United States Department of Housing and Urban Development is also considered a manufactured housing unit. (See the definition of "manufactured housing.")

**MOTEL** — A building or group of buildings which contain sleeping accommodations used primarily for transient occupancy and not containing individual kitchen facilities (includes hotels).

**MOTOR VEHICLE** — Any self-propelled vehicle designed for operation on a public street, whether or not requiring registration with the State of New Hampshire.

**MOTOR VEHICLE SERVICE STATION** — A building or other structure or a tract of land used exclusively for the storage and sale of gasoline or other motor fuels and for any uses accessory thereto. The sale of lubricants, accessories or supplies, the lubrication of motor vehicles, the minor adjustment or repair of motor vehicles and the washing of motor vehicles are permitted accessory uses.

**MULTIPLE DWELLING** — Any dwelling containing more than two dwelling units.

**NONCONFORMING LOT** — Any lot that does not meet all of the requirements of this chapter, other than lot size.

**NONCONFORMING USE** — A use lawfully existing at the time of adoption of this chapter or any subsequent amendment thereto which does not conform to one or more provisions of this chapter.

**OFFICE, BUSINESS/OFFICE, PROFESSIONAL** — See the definition of "business" in this section.

**PARK AND RIDE LOT (MULTIMODAL)** — An area of land used to integrate public and private transportation and to promote the use of carpooling, vanpooling, and public transportation. Multimodal park and ride lots must provide facilities for bicycles, cars and one or more of the following: buses and trains.

**PETROLEUM BULK PLANT Or TERMINAL** – Means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, tank vehicle, portable tank, or container. [Added ATM 2015]

**PLANNING BOARD** — The Planning Board of the Town of Plaistow.

**POORLY DRAINED SOILS** — Soils are categorized by high intensity soils mapping or other methods as adopted by a state-certified soil scientist.

**PROCESSED RECYCLABLE MATERIAL** — A recyclable material which has been physically



sorted and separated by material type, formed into bales or otherwise physically processed and packaged in a manner satisfying the specifications for transportation to and acceptance by a market that will use the material for the production of certified waste-derived products. [Added 3-13-2007 ATM by Art. P-07-32]

**PUBLIC WATER SYSTEM** – A system for the provision to the public of piped water for human consumption where such a system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. [Added ATM 2015]

**RECREATIONAL VEHICLE CAMP** — A land area occupied or designed for occupancy by two or more recreational vehicles in use for temporary living purposes for less than six months of the year.

**RECYCLABLE MATERIALS** — Means “recyclable materials” as defined in RSA 149-M:4, XIX, namely “materials that can be used to produce marketable goods, including but not limited to separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, motor vehicle batteries, tires from motor vehicles, and paper.” The term does not include: [Added 3-13-2007 ATM by Art. P-07-32]

- A. Hazardous waste, hazardous air pollutants, and other waste not regulated as solid waste, as identified in Env-Wm 101.03;
- B. Waste identified as nonreusable in Env-Wm 2600, including asbestos and infectious waste; and
- C. Wastes from an unspecified production or generation process, such as municipal solid waste incinerator ash and contaminated soils or absorbent media.

**RECYCLING** — Means “recycling” as defined by RSA 149-M:4, XX, namely “the collection, storage, processing and redistribution of recyclable materials.” The term excludes the redistribution of recyclable materials for any purpose constituting disposal as defined in RSA 149-M:4, VI, incineration or another purpose not directly related to the production of certified waste-derived products. [Added 3-13-2007 ATM by Art. P-07-32]

**RECYCLING FACILITY** — A collection, storage and transfer facility which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes recycling center. [3-13-2007 ATM by Art. P-07-32]

**REGULATED CONTAINER** - Regulated container means any device in which a regulated substance is stored, transported, treated, disposed of, or otherwise handled, with a capacity of greater than or equal to 5 gallons, other than a fuel tank attached to a motor vehicle for the sole purpose of supplying fuel to that motor vehicle for that vehicle’s normal operation. (Added ATM 2015)

**REGULATED SUBSTANCES** – Means any of the following, with the exclusion of ammonia, sodium hypochlorite, sodium hydroxide, acetic acid, sulfuric acid, potassium hydroxide, potassium permanganate and substances used for the treatment of drinking water or waste water at department-approved facilities (Added ATM 2015):

- (1) Oil as defined in RSA 146-A:2, III;
- (2) Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6; and

(3) Any substance listed in 40 CFR 302, 7-1-05 edition.

**RESTAURANT** — Any building or structure that prepares or serves food for purchase by the general public. It may include any combination of sit-down service, take out service, and curbside service where a restaurant employee brings take-out orders to a customer waiting in a vehicle. Specifically not included in the definition are drive-through and drive-in restaurants. [Added 3-11-2008 ATM by Art. P-08-32]

- A. **DRIVE-THROUGH RESTAURANT** - Any restaurant that offers drive-through service where customers remain in their vehicles and form queues to order and pick up food packaged for take-out.
- B. **DRIVE-IN RESTAURANT** - Any restaurant where customers remain in their vehicles to order and consume food and beverages. Restaurant employees typically take food orders and deliver food to the customers' vehicles.

**ROOMING AND BOARDING HOUSE** — A building other than a hotel or motel where lodging is provided for compensation without individual cooking facilities. These will be considered commercial uses. [Amended ATM 3-13-2012 by Article P-12-21]

**SANITARY PROTECTIVE RADIUS** – The area around a well which must be maintained in its natural state as required by Env-Ws-378 or 379 for community water systems and Env-Ws-372.13 for other public water systems. (Added ATM 2015)

**SEASONAL HIGH WATER TABLE** – The depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed hydrologist soils scientist, wetlands scientist, engineer or other qualified professional approved by the Planning Board. (Added ATM 2015)

**SECONDARY CONTAINMENT** – A structure such as a berm or dike with an impervious surface that is adequate to hold at least 110% of the volume of the largest regulated-substance container for which the secondary containment will provide spill containment.

**SELECT RECYCLABLE MATERIAL** — A recyclable material comprised of one of the following materials: paper, cardboard, glass, plastic, ferrous metal, nonferrous metal, or textile materials. [Added 3-13-2007 ATM by Art. P-07-32]

**SERVICE REPAIR FACILITY** — Building or other structure where the majority of inside space is used for the repair of motor vehicles, including auto body repair. [Added 3-11-2008 ATM by Art. P-08-23]

**SIGN** – Definition removed from Article II, replaced by a definition in Article IX Signs. [Amended 3-10-2009 ATM by Art. P-09-19]

**SIGN, OFF-SITE** - A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered elsewhere than on the premises where the sign is located.

**SNOW DUMP/SNOW STORAGE AREA** – For the purpose of this ordinance this area is a location(s) where snow, which is cleared from roadways, sidewalks, and parking areas is placed for disposal. [Amended ATM 2015]

**SPECIAL EXCEPTION** — A use permitted within a district only after a determination by the Board of Adjustment that certain conditions specified in this chapter have been met. Building permits will be held until the twenty-day appeal period has passed in accordance with RSA 677:2.

**STABLE** — A building for lodging and feeding of horses and other farm animals.

**STRATIFIED-DRIFT AQUIFER** – A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay that contains sufficient saturated permeable material to yield significant quantities of water to wells. (Amended ATM 2015)

**STREET** — All town, state and federal highways and the land on either side of the same as covered by statutes and/or deeds to the width of the rights-of-way.

**STRUCTURE** — Anything assembled or constructed, the use of which requires location on or in the ground or an attachment to an object located on or in the ground. This includes structures assembled or constructed of plastic, fabric and/or canvas covered frame structures, structures for agricultural uses, structures installed on skids, blocks or permanent foundations and all sheds and storage facilities. All structures shall require a building permit. Further clarification follows:

- A) Fences and single mast flag poles shall not be considered structures.
- B) Stone walls when used to define property boundaries shall not be considered structures.
- C) Free standing signs shall be considered structures but are exempt from setback requirements. [Amended 3-13-2012 ATM by Art. P-12-19]

**SUBSTANDARD LOT** — A lot in existence and duly recorded in the Rockingham County Registry of Deeds, which has less than five acres in the RCI Zone, or less than 110,000 square feet in the LDR Zone, or less than 80,000 square feet in the CI and Industrial Zones, or less than 40,000 square feet in the MDR Zone. [Amended 3-12-2002 ATM by Art. P-38; 3-13-2007 ATM by Art. P-07-31]

**SURFACE WATER** – Any stream, river, lake, pond, or tidal water including marshes, watercourses, and other bodies of water, natural or artificial. [Amended ATM 2015]

**UNIMPROVED LOT** — A parcel of land which has no permanent buildings or structures, wells or septic systems.

**VARIANCE** — A legal permit to depart from the requirements of this chapter, granted by the Board of Adjustment. Building permits will be held until the twenty-day appeal period has passed in accordance with RSA 677:2.

**VEHICULAR BROKERAGE OFFICE** — That portion of a structure devoted in whole or in part to the administrative functions related to new and/or used motor vehicle sales with no retail or wholesale display or storage of motor vehicles. Retail or wholesale display and/or storage of motor vehicles are specifically prohibited. [Added 3-11-2008 ATM by Art. P-08-25]

**VEHICULAR DEALERSHIP** — That portion of a lot or structure devoted in whole or part to: [Amended 3-8-2005 ATM by Art. P-22]

- A. The sale of two or more new/used motor vehicles; or

- B. The display of two or more motor vehicles for the purpose of sale.
- C. The sale or display of two or more new/used motorcycles that require NH state registration and inspection.
- D. The sale or display of two or more new/used pieces of construction equipment or farm equipment with greater than 30 horsepower.
- E. Specifically excluded from this definition: self-propelled watercraft and off-road recreational vehicles, including but not limited to ATVs, off-road motor bikes and snowmobiles.
- F. Specifically excluded from this definition: self-propelled pieces of equipment, under 30 horsepower, used for yard maintenance, including but not limited to lawn mowers, garden tractors and snow blowers.

**VERY POORLY DRAINED SOILS** — Soils are categorized by high intensity soils mapping or other methods as adopted by a state-certified soil scientist.

**WELLHEAD PROTECTION AREA** – The surface and subsurface area surrounding a water well or well field supplying community and non-community public water systems, through which contaminants are reasonably likely to move toward and reach such water well or well field. [Added ATM 2015]

**YARD** — Any space that lies between the principal building or group of buildings and the nearest lot line and is unoccupied by any structure except as herein permitted:

- A. **YARD, FRONT** — An open space that lies between the principal building or group of buildings and the front lot line unoccupied by any structure.
- B. **YARD, REAR** — An open space extending the full width of the lot between the principal building or accessory structures and the rear lot line unoccupied by any structure.
- C. **YARD, SIDE** — An open space extending from the front yard to the rear yard between the principal building or accessory structures and the nearest side lot line unoccupied by any structure.

**ZONING OFFICER** — The administrative officer charged with the duty of enforcing the provisions of this chapter by the Selectmen.

### **ARTICLE III General Provisions**

#### **§ 220-3. One building per lot.**

- A. Not more than one house or other principal building or principal structure shall be placed on a lot.
- B. For CI, Industrial and ICR combined zones, more than one principal building per lot may be constructed if the Planning Board finds that multiple buildings improve the general health, safety and welfare of the public.
- C. In the ICR the dwelling unit shall be occupied by the owner of the business. [Added 3-13-2001 ATM by Art. P-30]

#### **§ 220-4. Fire and other ruins.** [Amended 3-8-2005 ATM by Art. P-21; 3-12-2013 ATM by Art. Z-13-12]

An owner or occupant of structures on land in any district shall remove fire or other ruins deemed uninhabitable or condemned within six months after such determination.

Structures may be rebuilt on the same footprint if the rebuild starts within one year of the fire or event causing the ruins. For the fire or ruins of dwelling units, the use of a temporary mobile home is allowed for each dwelling unit while the dwelling is being rebuilt (not to exceed two (2) years).

#### **§ 220-5. Prohibited uses.**

- A. Any uses that may be obnoxious or injurious by reason of the production or emission of odors, dust, smoke, refuse matter, fumes, noise, vibration or other similar conditions or that are dangerous to the comfort, peace, enjoyment, health, or safety of the community or that contribute to its disturbance or annoyance are prohibited in every district within the Town.
- B. No privately owned land in any district shall be used for the dumping or storage of hazardous wastes or junk.

#### **§ 220-6. Nonconforming uses.**

- A. Any nonconforming uses may continue in their present use, except that any nonconforming use or building may not be: [Amended 3-13-2001 ATM by Art. P-31]
  - (1) Changed to another nonconforming use.
  - (2) Reestablished after discontinuance for more than one year except to a use conforming to the district in which it is located.
- B. No junkyard may continue as a nonconforming use for more than one year after May 14, 1956, without having secured a special exception from the Board of Adjustment.

#### **§ 220-7. Use of substandard lot.** [Amended 3-13-2012 ATM by Article P-12-26]

- A. Any building or structure otherwise permitted in any district shall be permitted on a substandard lot of record provided that such substandard lot is legally buildable in all other aspects.

- B. Any building or structure otherwise permitted in any district may be expanded on a substandard lot of record provided that such expansion is legally buildable in all other aspects.
- C. Location of foundation shall be certified by a licensed land surveyor. [Added 3-12-2002 ATM by Art. P-33]

**§ 220-8. Use of nonconforming lot.** [Amended 3-13-2012 ATM by Article P-12-26]

- A. Any building or structure on a nonconforming lot may continue with the present use or change to any other permitted use in the district. Note: Such changes of use will require site plan review for any commercial or industrial use.
- B. Any building or structure on a nonconforming lot may not be extended or expanded except by a special exception.
  - (1) Exception: In the MDR, LDR, and residential uses in the CII and ICR, the principal structure may be expanded and/or an accessory structure may be added, without special exception, provided it complies with all current zoning for that district. [Added 3-14-2006 ATM by Art. P-9]
- C. Before any special exception can be granted, the following conditions must be met:
  - (1) Lot frontage must be at least 1/2 the frontage required in the district in which the land is located and that at the building line, the frontage requirement can be met. Minor dimensional waivers may be granted if justice requires.
  - (2) Location of the well and subsurface sewage disposal installation can meet all state and local regulations.
  - (3) The improvement of the lot will not endanger the public health or welfare.
  - (4) Location of foundation shall be certified by a licensed land surveyor. [Added 3-12-2002 ATM by Art. P-34]

**§ 220-8.1. Residential garages.** [Added 3-12-2002 ATM by Art. P-37; Amended 3-8-2016 by Art. Z-16-01]

- A. **(Reserved)**<sup>1</sup>
- B. Any garage/barn constructed in a residential zone must be utilized for residential purposes only. [Amended 3-8-2005 ATM by Art. P-8; 3-11-2008 ATM by Art. P-08-31]
- C. Barns on residential lots of greater than 5 acres and used for agricultural purposes are exempt. (Added 2015 ATM)

**§ 220-9. Driveway permits.** [Amended 3-12-2002 ATM by Art. P-43]

Permits are required for the construction of driveways or the reconstruction of driveways from the Town Highway Department for Town roads and from the State of New Hampshire Highway Department for driveways on state highways. (See Policy and Procedure for Driveways and Other Accesses to the State Highway System.) Any paving or repaving of driveways interfacing Town

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1. Former § 220-8.1(A), Residential Garages - Structure Size Restrictions table was removed 3-8-2016 ATM by Art. Z-16-01

property requires a permit obtainable from the Town Highway Department. In all cases in all zones where a driveway that has an egress on a Class V or higher road, public or private, and said driveway has any slopes greater than 9% or is more than 200 feet in length, a limit of liability waiver must be obtained from the Board of Selectmen before any approval or conditional approval is obtained from the Planning Board.

**§ 220-9.1. Location of residential driveways.** [Added 3-8-2005 ATM by Art. P-2; amended 3-11-2008 ATM by Art. P-08-22]

All driveways in any residential district must be located within the frontage of the lot and comply with the rear and side setbacks as specified in Table 220-32I.

**§ 220-10. Roadway construction.** [Amended 3-12-2002 ATM by Art. P-41]

All roadways shall be constructed to Town subdivision requirements.<sup>2</sup> Any abutting Town and/or developer that proposes to create roads, buildings (residential, commercial, or industrial zones) in Plaistow must be able to show that connection to an existing Plaistow Class V road or better is possible and will be provided as part of the plan, and provided that the portion of the plan that is within the Town of Plaistow meets all Plaistow zoning, subdivision, site plan, health, and Selectmen's ordinances and regulations.

**§ 220-11. Construction times.**

Construction start-up time is 7:00 a.m.; close-down time is 7:00 p.m.

**§ 220-12. Connection to Town drainage system.**

No individual, corporation or business may tie into a Town of Plaistow drainage system, including catch basins, without a written agreement and easement from the Plaistow Board of Selectmen.

**§220-11.1 Commercial/Industrial Business Hours of Operation** [Added ATM 2015]

Hours of operation for any commercial or industrial uses in all districts shall be reviewed and approved by the Planning Board as part of the site plan approval process and noted on the approved site plan.

**§ 220-13. Unregistered vehicles and commercial equipment.** [Amended 3-14-2017 by Art. Z-17-02]

- A. No more than one unregistered or inoperable motor vehicle may be kept on any lot in any zone unless part of an approved site plan. Such vehicles shall not be stored between the principal building and the street line unless adequately buffered from the street and neighbors by a stockade fence or other solid screening. This section shall not apply to the parking of one noncommercial motor vehicle *for sale* parked on a driveway, if the same is in operable condition and meets standards as required under New Hampshire Revised Statute Annotated 266:1, IV, for inspection and registration.
- B. No more than two commercial motor one-ton weight limit each vehicles may be kept on any lot in the residential zone.

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2. Editor's Note: See Ch. 235, Subdivision of Land.

- 1) EXCEPTION: Employees who bring home vehicles greater than 1-top capacity, to provide “on call” 24-hour response service, may keep that vehicle on their property while they are on “on call” status. A letter from the employer, noting the name of the employee, their “on call” status, and type of response vehicle, must be filed with the Code Enforcement Office and updated annually.

C. No construction equipment may be parked or stored on any lot in the residential zone.

**§ 220-14. Storage of hazardous materials.**

No facility, business or commercial or industrial enterprise shall be engaged in the transport, storage, treatment, disposal or any use of hazardous material in any district within the Town without a permit identifying the name and use of each substance or material. The permit applies only to the materials specified. The permitting procedure is as follows:

- A. A public hearing shall be held. Abutters shall be notified within 10 calendar days prior to the hearing at the expense of the applicant.
- B. Following the public hearing, the permit shall be granted only upon approval by the Board of Selectmen and the Planning Board.

**§ 220-15. Construction prior to plan approval.**

No person shall commence the construction of roads within the lot, tract, or parcel proposed to be subdivided, by clearing the land thereof of natural vegetation, placing any artificial fill thereon, or otherwise altering the land, nor shall be do any other act or acts which will alter the natural state of the land or environment, unless the subdivision plan relating thereto has been submitted and approved in accordance with the regulations of the Town of Plaistow. No person shall commence site work on property that is intended to come before or is before the Planning Board for site plan review. Nothing in this section shall be construed to prevent the taking of test borings, the digging of test pits, or any other preliminary testing and inspection necessary to comply with the requirements of the Division of Water Supply and Pollution Control relative to information necessary for review and approval of the subdivision plan.<sup>3</sup>

**§ 220-16. Motor vehicle and trailer sales.**

- A. Parking spaces used for display at all vehicular dealerships must be a minimum size of eight feet by 16 feet. This does not apply to customer, employee or handicap spaces.
- B. No lot used for a vehicular dealership in any zone may be located any closer than 1,000 feet in any direction to any other lot used for a vehicular dealership.

[Amended 3-11-2013 ATM by Art. Z-14-3]

- C. Annual inspections with the required inspection fee as set forth in the Planning Board Fee Schedule<sup>4</sup> shall be completed by the Code Enforcement Officer for renewal of the certificate of occupancy. [Amended 3-11-2008 ATM by Art. 42]
- D. This use shall stand alone or may be combined with another vehicular-dealership-related use only.

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3. Editor's Note: See also § 235-12B(8)(c).

4. Editor's Note: The Planning Board Fee Schedule is on file in the Town offices.



- E. The sale of vehicles from a residential property is restricted to one vehicle, displayed on the paved driveway to the residence with a current State of New Hampshire inspection sticker. [Added 3-9-2004 ATM by Art. P-26]

**§ 220-17. Motor vehicle fueling station.**

No lot for a motor vehicle fueling station may be located any closer than 1,000 feet in any direction to any other motor vehicle fueling station.

**§ 220-17.1. Conditions to approvals.** [Added 3-12-2002 ATM by Art. P-44]

- A. All conditions described in the motion to approve a subdivision, lot line adjustment, site plan review, wetlands conditional use permit, and/or hazardous material review must be met within 45 days unless one or more of the following is true: [Amended 3-14-2006 ATM by Art. P-10]
- (1) A specific time limit was made as part of the motion to conditionally approve; or
  - (2) The applicant has applied for and the Planning Board has approved a request to extend the time limit for a specified period of time not to exceed 45 days. The applicant may apply for one forty-five-day extension.
- B. Failure to meet all conditions within the time prescribed results in automatic disapproval and the plan is required to be resubmitted.

**§ 220-17.2. Commercial/Industrial site maintenance.** [Added 3-12-2002 ATM by Art. P-46]

- A. Any owner of a commercial, industrial or combined use site, with or without an approved site plan, shall maintain his/her property in such a way that it will enhance his/her own property and not detract from the neighboring properties. Items to be maintained shall include, but are not limited to:
- (1) Pavement shall be installed, seal-coated, or reclaimed as necessary.
  - (2) Potholes filled as needed.
  - (3) Striping for all parking, fire lanes and any necessary directional arrows shall be maintained as per approved site plan or per the Code Enforcement Officer.
  - (4) Handicapped signage shall be in place, to include an upright sign as well as a painted ground symbol.
  - (5) Dumpsters shall be maintained, placed on pavement and fenced. There shall be no trash or other debris left on the property.
  - (6) Landscaping (i.e., trees, shrubs, grass/lawns) shall be properly maintained and replaced as needed.
  - (7) Any other conditions that may be applicable to comply with an approved site plan.
- B. Unannounced annual inspections may be done by the Code Enforcement Officer to determine compliance with this section, any approved site plan and/or any other applicable regulations. Failure to comply, once notified of a violation, may result in fines and/or penalties per Article XXI.
- C. An approved copy of the site plan shall be displayed on/in the site/building at all times.

[Added 3-11-2003 ATM by Art. P-22]

**§ 220-17.3. Storage containers.** [Added 3-9-2004 ATM by Art. P-31]

- A. Storage containers, without an axle, may be placed on any lot, in any district, provided that the container has been issued a permit, is placed to meet the set backs of the individual districts and the following conditions are met:
- (1) Residential: One container per residential lot, maximum length 30 feet.
  - (2) Commercial/industrial: No commercial or industrial site, with or without an approved site plan shall be issued a permit for a storage container without prior approval of the Planning Board.
- B. Any storage container permit is issued only for the exact container. Any new container, or substitute container shall require a new permit. The new permit shall meet all the requirements of Subsection A above.
- C. The cost of a permit for a storage container shall be as set forth in the Planning Board Fee Schedule<sup>5</sup> for a twelve-month period. [Amended 3-11-2008 ATM by Art. 42]
- D. Trailers and containers with an axle are prohibited on any residential use lot. Trailers and containers with an axle are allowable for commercial/industrial use properties with site plan approval by the Planning Board.

**§ 220-17.4. Class VI Road Building Requirements.** [Amended 3-11-2014 ATM by Art. Z-14-2]

Class VI roads are roads that have been laid in some form but never maintained by the Town. The Class VI designation may apply to entire roads or sections of roads. Any person requesting a building permit for a parcel or parcels of land with frontage on a Class VI road must submit a Limit of Liability form to the Board of Selectmen. This form must be reviewed, approved and signed by the Board of Selectmen and subsequently recorded at the Rockingham County Registry of Deeds (RCRD).

All other zoning, subdivision, and/or site plan review requirements must also be met.

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<sup>5</sup>. Editor's Note: The Planning Board Fee Schedule is on file in the Town offices.

## **ARTICLE IV**

### **Wetlands**

[Amended 3-13-2001 ATM by Art. P-32; 3-8-2005 ATM by Art. P-20; 3-14-2006 ATM by Art. P-6]

#### **§ 220-18. Authority and purpose.**

By the authority granted in New Hampshire RSA 674:16 to 17 and RSA 674:20 to 21 and in the interest of public health, safety, and general welfare, the Plaistow Wetlands Ordinance is hereby enacted to regulate the uses of a Wetlands District. The regulations are intended to:

- A. Protect persons and properties from danger of floods by preserving natural floodwater storage areas.
- B. Prevent the Town of Plaistow from incurring the costs of constructing sewer lines and treatment facilities which will be necessitated by the unwise use or development of unsuitable areas.
- C. Prevent development on soils which will contribute to the pollution of surface and ground waters necessary to supply domestic needs.
- D. Preserve recharge areas necessary to regulate groundwater supply and augment stream flow during dry periods.
- E. Protect existing water quality.
- F. Protect existing natural wildlife habitats.
- G. Discourage chronic stress on wetlands environments contributed by modification of water flow patterns and rates.
- H. Encourage uses that can be safely and appropriately located in wetland areas.
- I. Encourage uses that can be safely and appropriately located in green spaces and open spaces.

#### **§ 220-19. Wetlands District.**

- A. A Wetlands District is an overlay district that may occur in any zone as defined by the Plaistow Zoning Ordinance.
- B. A Wetlands District contains all wetlands areas as defined in § 220-20B and all wetlands buffers as defined in § 220-21.
- C. Where a Wetlands District overlays another zone or district the more restrictive regulations shall apply.

#### **§ 220-20. Wetlands and wetlands boundaries.**

- A. "Wetlands" means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- B. The wetlands boundary shall circumscribe the wetlands area as defined in Subsection A.
- C. Saturated soil conditions shall be as defined by the High Intensity Soil Survey (HIS)

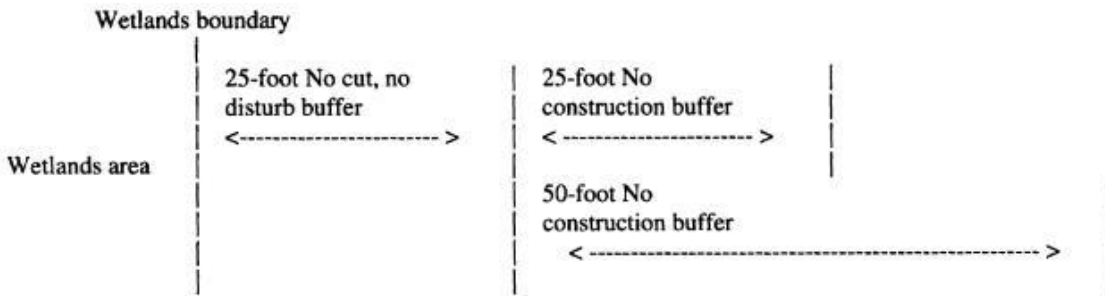
Standards. The HIS standards define soil types by six drainage classes; two of those classes, 5 and 6, define saturated soil conditions. Class 5 soils are poorly drained soils, and Class 6 soils are very poorly drained soils. All soil surveys for determining saturated soil conditions shall be performed in adherence with HIS standards.

- D. Vernal pools shall be considered wetlands areas for the purpose of this article. Vernal pools have either bedrock or a hard clay layer in the soil that helps to keep water in the pool. They are covered by shallow water for variable periods from winter to spring but may be completely dry for most of the summer and fall.
- E. Wetlands vegetation shall be defined as vegetation typically adapted for life in saturated soil conditions. Areas where wetland vegetation comprises 50% or more of the total vegetation shall be considered wetlands regardless of soil classification boundaries.

**§ 220-21. Wetlands buffers.**

Wetland buffers shall exist adjacent to all wetlands areas to protect wetlands and the surrounding vegetation and wildlife habitats. Wetlands buffers shall include the following:

- A. No-cut, no-disturb buffer.
  - (1) There shall be a twenty-five-foot buffer immediately adjacent to all wetlands areas that shall be left in its naturally vegetated state. No cutting of vegetation shall be permitted unless a study (approved by the Planning Board and Conservation Commission) is done that shows the existing vegetation as having a negative impact on the wetlands areas, vegetation or wildlife supported by the wetlands areas.
  - (2) No additional plantings are allowed, and no fertilizers, herbicides, or pesticides may be applied in wetlands buffers. Town, state, and federal regulated mosquito and pest control is exempt from this restriction.
- B. Twenty-five-foot no construction buffer.
  - (1) There shall be a twenty-five-foot buffer immediately adjacent to the "no-cut, no-disturb" buffer (total of 50 feet from the outer edge of the wetlands boundary as determined herein). No buildings, structures, driveways, roads, or paved surfaces are allowed in the twenty-five-foot no-construction buffer.
  - (2) This buffer shall apply only in those cases where the wetlands areas are defined by poorly drained soils and/or by wetlands vegetation.
- C. Fifty-foot no-construction buffer.
  - (1) There shall be a fifty-foot buffer immediately adjacent to the "no-cut, no-disturb" buffer (total of 75 feet from the outer edge of the buffer to the wetlands boundary). No buildings, structures, driveways, roads, or paved surfaces are allowed in the fifty-foot no-construction buffer.
  - (2) This buffer shall apply only in those cases where the wetlands areas are defined by very poorly drained soils and/or by vernal pools.
- D. Wetlands buffers diagram.



**§ 220-22. Boundary appeals.**

In the event that the Code Enforcement Officer, the Conservation Commission, or the Planning Board questions the validity of a wetlands boundary, or a wetlands buffer on a specific parcel of land, the Board may call upon the services of a qualified wetlands scientist, biologist, or botanist, as applicable, to examine and report the findings to the Planning Board and Conservation Commission for determination of the boundary. Any necessary soil testing procedures or vegetation determination procedures shall be conducted at the expense of the applicant. Any costs associated with such an appeal shall be borne by the applicant.

**§ 220-23. Permitted uses in Wetlands District.**

All uses not specifically mentioned in this article are not permitted. Permitted uses are those compatible with the purposes specified in § 220-18 of this article, those in compliance with other municipal and state regulations, and those which do not involve significant altering of the wetlands, including:

- A. Forestry and tree farming in accordance with a certified professional forester.
- B. Water supply sources.
- C. Wildlife habitat and habitat development.
- D. Conservation areas, passive recreational uses, and nature trails, providing the activity has not significantly altered any part of the district or wildlife habitat.
- E. Agriculture, including grazing, hay production, truck gardening, and silage production, providing that such uses are shown not to cause increases in surface or groundwater contamination by pesticides or other toxic or hazardous substances and that such uses will not cause the soil to erode.

**§ 220-24. Prohibitions in Wetlands District.**

The following prohibitions apply in a Wetlands District:

- A. Septic systems and waste disposal systems. [Amended 3-11-2008 ATM by Art. P-08-20]
  - (1) Septic systems or waste disposal systems are not allowed.
  - (2) No replacement septic system or waste disposal system on an existing lot of record shall be allowed in the Wetlands District unless:
    - (a) The new design has been approved by state and municipal authorities.

- (b) It is not possible to locate the replacement system outside of the Wetlands District, and if possible, 100 feet or more from the wetlands boundary on the existing lot of record.
- B. Building activity; includes but is not limited to all buildings, structures, driveways, roads, and paved surfaces.
- C. Deposits of fill unless approved by state and municipal authorities. A conditional use permit may also be necessary; see § 220-25 for the conditional use permit requirements.
- D. Deposits of hazardous materials regardless of state or municipal approval.
- E. Relocation or disturbance of a wetlands area.

**§ 220-25. Conditional uses.**

- A. A conditional use permit may be granted by the Planning Board (RSA 674:21, II) for the construction of roads and other access ways and for pipelines, power lines, and other types of transmission lines, provided the following conditions are met:
  - (1) The proposed construction is essential to the productive use of land not within a Wetlands District.
  - (2) Design and construction methods will be such as to minimize detrimental impact upon a Wetlands District and will include restoration of the site as nearly as possible to its original grade and condition.
  - (3) No feasible alternative route that avoids crossing a Wetlands District or has less detrimental impact on a Wetlands District is feasible.
  - (4) Economic advantage alone is not the reason for the proposed construction.
  - (5) A written report from the Conservation Commission regarding the conditional use permit is received by the Planning Board.
- B. Prior to the granting of a conditional permit under this section, the applicant shall agree to submit a performance security as determined by the Planning Board. The security shall be submitted in a form and amount with surety and conditions satisfactory to the Planning Board to ensure that the construction has been carried out in accordance with the approved design. The security shall be submitted and approved by the Planning Board prior to the issuance of any permit authorizing construction.
- C. The Planning Board, with the concurrence of the Conservation Commission, may require the applicant to submit an environmental impact assessment when necessary to evaluate an application made under this section. The cost of this assessment shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of other special investigative studies and for the review of documents required by particular applications.

**§ 220-26. Septic systems and waste disposal systems.** [Added 3-11-2008 ATM by Art. P-08-21]

- A. No new septic system or waste disposal system shall be allowed within 100 feet of a wetlands boundary.

- B. No replacement septic system or waste disposal system on an existing lot of record shall be allowed within 100 feet of a wetlands boundary unless:
  - (1) The new design has been approved by state and municipal authorities.
  - (2) It is not possible to locate the replacement system 100 feet or more from the wetlands boundary on the existing lot of record.

**§ 220-27. Shoreland Protection** [Added 3-10-2009 ATM by Art P-09-13]

- A. Any development or redevelopment within 250 feet of any shore of the Little River requires compliance with the State of NH Comprehensive Shoreland Protection Act, RSA 483-B.
- B. Notes must be added to a site plan or subdivision plan that lists the State Shoreland Protection permit number or a note or notes stating why the State permit is not required.
- C. In some cases, both a Dredge and Fill permit and a Shoreland Protection permit may be required. In case of a conflict between State and Local regulations, the stricter regulation shall apply.

**ARTICLE V**  
**Establishment of Districts and District Regulations**

**§ 220-28. Establishment of districts; Zoning Map.** [Amended 3-13-2001 ATM by Art. P-37; 3-13-2007 ATM by Art. P-07-26; 3-13-2007 ATM by Art. P-07-30; 3-13-2007 ATM by Art. P-07-31; 3-10-2009 ATM by Art. P-09-26 and Art. P-09-28; 3-08-11ATM by Art. P-11-21]

A. The Town of Plaistow is divided into the following districts as shown on the Zoning Map:

- RCI Residential-Conservation I
- RCII Residential-Conservation II
- LDR Low Density Residential
- MDR Medium Density Residential
- CII Commercial II
- CI Commercial I
- INDI Industrial I
- INDII Industrial II
- ICR Integrated Commercial-Residential
- VC Village Center

B. The official Zoning Map is generated by a Geographic Information System (GIS) and is on file in the Department of Building Safety and Planning Board offices in the Plaistow Town Hall.

**§ 220-29. (Reserved)** <sup>6</sup>

**§ 220-30. District boundaries.**

A district boundary shown on the Zoning Map as approximately following the center line of a street, the center line of a railroad right-of-way, a property line, or a brook shall be construed as following such line. Where a zone boundary follows any such landmarks the distance shown on the Zoning Map shall be measured from the center of such landmark or right-of-way. If the district classification of any land is in question, it shall be deemed to be in the more restricted adjoining district.

**§ 220-31. Application of regulations.**

- A. Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended and no land, building or structure or part thereof shall be occupied or used unless in conformity with the regulations herein specified for the district in which it is located. Any use not permitted by these regulations shall be deemed prohibited.
- B. In all zones, the requirement for frontage on lots must be contiguous. [Added 3-11-2003 ATM by Art. P-17]

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<sup>6</sup>. Editor's Note: Former § 220-29, Zoning Map, was repealed 3-13-2007 ATM by Art. P-07-26. For current provisions, see § 220-28.



**§ 220-32. District objectives and land use control.**

The following tables set forth the objectives of each of the districts hereby established and the provisions of the regulations that apply respectively in each district. Any use designated as a "Permitted Use" in a particular district may be commenced in such district pursuant to § 220-33 of this chapter. Any use designated as a "Special Exception" in a particular district may be commenced in such district pursuant to § 220-138 of this chapter. Regulations for lots, classification of lots, dimension requirements, accessory uses and application of district regulations are found in §§ 220-32 to 220-45, inclusive. The raising of legal crops, keeping of gardens, and using of land for forestry are allowed in all districts and are not regulated by this chapter.

**Table 220-32A  
"INDI" - Industrial I**

A. Objectives and characteristics. The purpose of this district is to provide locations for the establishment of plants to improve employment opportunities and broaden the tax base in the community. These areas should be selected so that they will not adversely affect developed residential areas, will have good access to transportation facilities, and will have the potential for being served by public water and sewer systems. A variety of types of manufacturing activities, distribution facilities, and offices should be permitted, as well as certain support facilities, especially of a commercial nature.

One of the major characteristics of this zone is its proximity to the rail line that carries both freight and passenger service and should favor those industries that are able to take advantage of the rail connection. The zone is also surrounded by residential uses and in general does not have good access to a major thoroughfare such as Route 125. These areas are extremely traffic sensitive and noise and dust issues will be of paramount importance. Any proposed use must not violate §220-5., Prohibited Uses. [Amended 3-10-2009 ATM by Art. P-09-26]

B. Uses.  
[Amended 3-13-2001 ATM by Art. P-33; 7-7-2005 by ATM by Art. SP-1; 3-11-2008 ATM by Art. P-08-24; 3-10-2009 ATM by Art. P-09-26; 3-14-2017 by Art.; 314-2017 by Art. Z-17-03]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Light industry	None
2. Warehouse	
3. (Reserved)	
4. Outdoor storage	
5. Contractor's storage yard	
6. Publishing	
7. Research and testing labs	
8. Office	
9. Essential service	
10. (Reserved) <sup>7</sup>	
11. Public use limited to office, public safety, service and recreation	
12. (Reserved)	
13. Accessory use or structure	
13.1. Mini-storage	
14. (Reserved) <sup>6</sup>	
15. Bank kiosk	
16. Rail services and rail stations	
17.	

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<sup>7</sup> Uses (10-Aviation and 14-Bank) removed from Permitted Uses on 3-10-2009 ATM by Art. P-09-26.

C. Areas and dimensions.

(1) Minimum lot size:

- (a) Area: 80,000 square feet.  
[Amended 3-12-2002 ATM by Art. P-42]
- (b) Frontage: 150 feet.

(2) Minimum yard dimensions: refer to Table 220-32I.

(3) Maximum lot coverage: 75%.

(4) Maximum height: 45 feet or three stories, whichever is less.

(5) Minimum building setback: 50 feet from the front property line.  
[Added 3-9-2004 ATM by Art. P-32; amended 3-8-2005 ATM by Art. P-4]

D. No building permit for any bank kiosk use may be granted before at least one certificate of occupancy has been issued for an industrial use. [Amended 2015 ATM]

E. In an industrial development, no more than 10% of the total building footprint for the development can be used bank kiosk use. [Amended 2015 ATM]

F. The intent of allowing a bank kiosk in an industrial zone is to provide a convenient service for the employees of the industries in the industrial zone. [Amended 2015 ATM]

**Table 220-32B  
"CI" - Commercial I**

- A. Objectives and characteristics. With today's reliance on automobile transportation and Plaistow's being the commercial center for an area beyond its boundaries, provisions need to be made within the Town for areas to serve as regional commercial centers. These areas should have good highway access, adequate off-street parking, proper lighting, police and fire protection, and adequate water and sewer services provided.
- B. Uses.  
[Amended 3-13-2001 ATM by Art. P-34; 3-12-2002 ATM by Arts. P-39 and P-47; 3-11-2008 ATM by Arts. P-08-26, P-08-33, and P-08-34; 3-10-2009 by Art. P-09-14; 3-8-2016 ATM by Art, Z-16-03; 3-14-2017 by Art. Z-17-05].

**Permitted Uses**

1. Retail business
2. Wholesale business
3. Personal service business<sup>9</sup>
4. Business office
5. Professional office
6. Bank
7. Restaurant
8. Funeral establishment
9. Private/service club
10. Commercial recreation
11. Motel
12. Vehicular, trailer and recreational vehicles sales and service repair facility
13. Place of Worship
14. Publishing

**Allowed by Special Exception**

1. Care and treatment of animals<sup>8</sup>
2. (Reserved)
3. (Reserved)
4. Adult-oriented business<sup>10</sup>

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<sup>8</sup> See Paragraph D of this table for Special Exception criteria.

<sup>9</sup> See Subsection D in the definition of "business" in § 220-2 for definition. Evidence of the necessary credentials and qualifications required to operate the business and/or to conduct treatments related to the business, pursuant to pertinent sections of Title XXX, New Hampshire Revised Statutes Annotated, must be presented to and approved by the Health Officer of the Town prior to filing an application for site plan approval. Should site plan approval be granted, further approval by the Health Officer and Building Code Inspector must be obtained before an occupancy permit, approving use of the site for a specified purpose, shall be granted by the Building Inspector. The business shall be subject to inspections by the Health Officer, Building Inspector, and the New Hampshire Division of Public Health Services to assure continuing compliance with applicable sections of Title XXX of the New Hampshire Statutes, as well as with local health and building code ordinances. Upon a finding of noncompliance, the Town of Plaistow may suspend or revoke a license to operate; the State of New Hampshire may suspend or revoke a practitioner's license; and/or fines may be levied not to exceed the maximum amount which the state allows for violations found in the type of operation initially permitted.

<sup>10</sup> See Article XVIII – Adult-Oriented Business for further requirements.

- 14.1. Vehicular brokerage office
- 14.2. Drive-through restaurants
- 14.3. Drive-in restaurants
- 14.4. Produce stand
15. Public use, limited to public safety and service
16. Accessory use or structure
17. Storage of equipment/vehicles used to service a product
18. Essential service
19. Small industry
20. Multimodal park and ride lots
21. Theaters
22. *Nursing/Convalescent Homes/Assisted Living Facilities*
23. *Hospitals/Urgent Care Facilities*

C. Areas and dimensions.

- (1) Minimum lot size:
  - (a) Area: 80,000 square feet.  
[Amended 3-12-2002 ATM by Art. P-42]
  - (b) Frontage: 150 feet.
- (2) Minimum yard dimensions: refer to Table 220-32I.
- (3) Maximum lot coverage: 75%.
- (4) Maximum height: 45 feet or three stories, whichever is less.
- (5) Minimum building set back: 50 feet from the front property line.  
[Added 3-9-2004 ATM by Art. P-32; amended 3-8-2005 ATM by Art. P-5]

D. Special exception criteria for the use “Care and treatment of animals.”  
[Added 3-11-2008 ATM by Art. P-08-35]

- (1) There must be at least one employee for every 15 animals at the facility.
- (2) If animals are to remain overnight, there must be at least one employee at the facility between the hours of closure on one day and the opening for business the next business day, or until all animals are removed. Accommodations for such a caretaker are permitted, although it is not the intent of the chapter to allow the facility to be the caretaker’s residence in all districts except as a combined use in the ICR District.
- (3) The operator of the facility must present a plan that includes the type of animals that would be treated or cared for at the facility. There must be adequate exercise areas for the animals, if appropriate.
- (4) Large animals whose normal weight would exceed 180 pounds are prohibited under this section of the chapter.
- (5) The operator of the facility must present a plan that describes how the animal waste is to be disposed.

- (6) If appropriate, a stockade fence may be required to reduce or eliminate disturbing the animals by adjacent activities and likewise to reduce or eliminate disturbing the abutters by the animals.
- (7) To operate the facility at the proposed location if animals are to be treated by veterinarians or veterinary assistants, all necessary licenses must be presented before an occupancy permit shall be issued.
- (8) Any facility must also comply with all federal, state, and local health ordinances as applicable.
- (9) No animals can remain outside overnight, and if any animals are to remain outdoors during the daytime, then adequate facilities must be provided for shelter and water.
- (10) Facilities for the care and treatment of animals shall be a stand-alone business and shall not be located within a retail plaza [Added 3-8-2016 ATM by Art. Z-16-03]

E. CI-Danville Road Overlay District. [Amended 3-11-14 ATM by Art. Z-14-1]

The CI-Danville Road Overlay District as shown on the Zoning Map shall have the following additional permitted use:

Mixed Commercial/Residential Uses where the workplace or the residence must be owner occupied.

**Table 220-32C**  
**"CII" - Commercial II**

A. Objectives and characteristics. This area encompasses that portion referred to as "Town Center" of the "older" Plaistow. It has all the characteristics of a rural New England Town through much of its area, which is to be preserved. To that extent, exterior changes on properties should be held to a minimum, yet allow for uses compatible with the existing residential character of the area.

B. Uses.

[Amended 3-12-2002 ATM by Art. P-45; 3-14-2006 ATM by Art. P-11; 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-11-2008 ATM by Art. P-08-36; 3-11-2008 ATM by Art. P-08-37; 3-13-2012 ATM by Art. P12-22 and Art.P12-25; 3-12-2013 ATM by Art. Z-13-7 and Z-13-18]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Retail business (maximum 2,000 square feet per lot)	10. Home occupation <sup>11</sup>
2. Place of worship	11. (Reserved)
3. Business/professional office	
4. Funeral establishment	
5. Public use, limited to public safety and service	
6. Single-family residence/duplex	
7. Accessory use or structure	
8. Essential service	
8.1. Rooming and Boarding House	
8.2. Multifamily	
8.3. Fraternal, service and charitable uses	
8.4. Bed and Breakfast Facility	
9. Day-care facilities	
9.1. Mixed commercial/residential uses.(Amended ATM 2015)	
9.2. Accessory Dwelling Unit (ADU) (owner-occupied only, not allowed in multifamily dwellings) <sup>12</sup>	

C. Areas and dimensions.

- (1) Minimum lot size:  
[Amended 3-14-2006 ATM by Art. P-11]
  - (a) Area: 40,000 square feet (per family).
  - (b) Frontage: 150 feet. Exception: Duplex uses require 200 feet of frontage.
- (2) Minimum yard dimensions: refer to Table 220-32I.

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<sup>11</sup> See Article X – Home Occupation for further requirements.

<sup>12</sup> See Article VIII – Accessory Dwelling Units (ADU) for further requirements.

- (3) Maximum lot coverage: 30%.
- (4) Maximum height: 45 feet or three stories, whichever is less.
- (5) Corrals for all farm animals must be at least 50 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35]
- (6) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35, amended ATM 2015]
- (7) Chicken coops and rabbit hutches, less than 120 sq ft footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I. (Added ATM 2015)



**Table 220-32D**  
**“VC” — Village Center<sup>13</sup>**  
 [Added 3-13-2007 ATM by Art. P-07-30]

A. Objectives and characteristics. The purpose of the District is to provide a pedestrian-friendly area where residents may live, shop, work, and conduct Town business. Where possible traffic calming techniques should be applied throughout the district and sidewalks should be provided on both sides of the street. Editor's Note: The Zoning Map is on file in the Town offices.

B. Uses.

[Amended 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-11-2008 ATM by Art. P-08-36; 3-11-2008 ATM by Art. P-08-37; 3-08-11 ATM by Art. P-11-22; 3-12-2013 ATM by Art. Z-13-7 and Z-13-20]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Retail business (maximum 2,000 square feet per lot)	13. Home occupation <sup>14</sup>
2. Place of worship	14. (Reserved)
3. Business/professional office	
4. Funeral establishment	
5. Public use, limited to public safety and service	
6. Single-family residence/duplex	
7. Accessory use or structure	
8. Essential service	
9. (Reserved)	
10. Multifamily	
11. Mixed use [Amended ATM 2015]	
11.1. Fraternal, service and charitable uses	
12. Day-care facilities	
12.1 Accessory Dwelling Unit (ADU) (Owner-occupied only, not allowed in multifamily dwellings) <sup>15</sup>	
12.2 Bed and Breakfast Facility	

C. Areas and dimensions.

- (1) Minimum lot size:
  - (a) Area: 40,000 square feet (per family).
  - (b) Frontage: 150 feet. Exception: Duplex uses require 200 feet of frontage.
- (2) Minimum yard dimensions: Refer to Table 220-32I.

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<sup>13</sup> Editor's note: Table 220-32D was formerly for an AEHC district. That district was deleted on 3-13-2001 by Art. P-37.

<sup>14</sup> See Article X – Home Occupation for further requirements.

<sup>15</sup> See Article VIII – Accessory Dwelling Units (ADU) for further requirements.

- (3) Maximum lot coverage: 30%.
- (4) Maximum height: 45 feet or three stories, whichever is less.
- (5) Corrals for all farm animals must be at least 50 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35]
- (6) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35, amended ATM 2015]
- (7) Chicken coops and rabbit hutches, less than 120 sq ft footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I. [Added ATM 2015]

**Table 220-32E**  
**"MDR" - Medium Density Residential**

- A. Objectives and characteristics. The Medium Density Residential Area is designated to accommodate a large percentage of those residents desiring to live in an urban-fringe setting of single-family houses or townhouses. These portions of Plaistow could, in the future, be serviced by public water and sewer. It is the purpose of this district to allow for the protection of community resources for future residential and necessary ancillary development.
- B. Uses.  
[Amended 3-12-2002 ATM by Art. P-45; 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-11-2008 ATM by Art. P-08-38; 3-12-2013 ATM by Art. Z-13-5 and Z-13-7]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Single-family/duplex	9. (Reserved)
2. Multifamily in a PRD <sup>16</sup>	10. (Reserved)
3. Manufactured housing in a PRD	11. (Reserved)
4. Private/public nonprofit recreation	12. Home occupation <sup>17</sup>
5. Essential services	13. (Reserved)
6. Accessory use or structure	
7. Place of Worship <sup>18</sup>	
8. Cemetery/burial site and mausoleum <sup>19</sup>	
8.1. (Reserved)	
8.2. Accessory Dwelling Unit (ADU) (owner-occupied only, not allowed in multifamily dwellings) <sup>20</sup>	

C. Areas and dimensions.

- (1) Minimum lot size:  
[Amended 3-14-2006 ATM by Art. P-12]
  - (a) Area: 40,000 square feet.
  - (b) Frontage: 150 feet. Exception: Duplex uses require 200 feet of frontage.
- (2) Minimum area per family: 40,000 square feet.
- (3) Minimum yard dimensions: Refer to Table 220-32I.
- (4) Maximum lot coverage: 20%.
- (5) Maximum height: 45 feet or three stories, whichever is less.
- (6) Corrals for all farm animals must be at least 50 feet from any lot line.

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<sup>16</sup> See Article VI – Planned Residential Development (PRD) for further requirements.  
<sup>17</sup> See Article X – Home Occupation for further requirements.  
<sup>18</sup> See § 235 – Site Plan Review Requirements for further requirements.  
<sup>19</sup> See Article XIII – Cemetery/Burial Site and Mausoleum for further requirements.  
<sup>20</sup> See Article VIII. – Accessory Dwelling Units (ADU) for further requirements.

[Amended 3-9-2004 ATM by Art. P-35]

- (7) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.

[Amended 3-9-2004 ATM by Art. P-35, Amended ATM 2015]

- (8) Chicken coops and rabbit hutches, less than 120 sq ft footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I. (Added ATM 2015)

**Table 220-32F**  
**"LDR" - Low Density Residential**

A. Objectives and characteristics. The Low Density Residential Districts generally contain suitable soils and slopes for residential development, are accessible to other population centers, are feasible to be served with public facilities and utilities in the future, and are generally located farther from the Town center than MDR areas. The purpose of this district is to accommodate population growth at densities attractive to development, leaving natural resources free of scattered development or subdivisions, which would destroy the town's open spaces landscape pursuits, and reducing congestion and burden on Town facilities and roads. It is the purpose of this district to allow for the protection of community resources for future residential and necessary ancillary development.

B. Uses.

[Amended 3-12-2002 ATM by Art. P-45; 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-11-2008 ATM by Art. P-08-38; 3-12-2013 ATM by Art. Z-13-6 and Z-13-7]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Single-family and duplex dwellings	11. (Reserved)
2. Multifamily housing in a PRD <sup>21</sup>	12. Home occupation <sup>22</sup>
3. Manufactured housing in a PRD	13. (Reserved)
4. Accessory use or structure	14. (Reserved)
5. Private/public nonprofit recreation	
6. Essential services	
7. Agriculture	
8. Forestry	
9. Place of Worship <sup>23</sup>	
10. Cemetery/burial site and mausoleum <sup>24</sup>	
10.1. (Reserved)	
10.2. Accessory Dwelling Unit (ADU) (Owner-occupied only, not allowed in multifamily dwellings <sup>25</sup> )	

C. Areas and dimensions.

- (1) Minimum lot size:
  - (a) Area: 110,000 square feet.
  - (b) Frontage: 200 feet.
- (2) Minimum area per family: 110,000 square feet.

<sup>21</sup> See Article VI – Planned Residential Development (PRD) for further requirements.

<sup>22</sup> See Article X – Home Occupation for further requirements.

<sup>23</sup> See § 235 – Site Plan Review Requirements for further requirements.

<sup>24</sup> See Article XIII – Cemetery/Burial Site and Mausoleum for further requirements.

<sup>25</sup> See Article VIII. – Accessory Dwelling Units (ADU) for further requirements.

- (3) Minimum yard dimensions: Refer to Table 220-32I.
- (4) Maximum lot coverage: 20%.
- (5) Maximum height: 45 feet or three stories, whichever is less.
- (6) Corrals for all farm animals must be at least 50 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35]
- (7) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35, amended ATM 2015]
- (8) Chicken coops and rabbit hutches, less than 120 sq. ft. footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I. (Added ATM 2015)

**Table 220-32G**  
**"ICR" - Integrated Commercial-Residential**

- A. Objectives and characteristics. The Integrated Commercial-Residential Area is designated to reflect the unique evolution of development in this section of the Town where, because of its isolated geographic location with respect to the remainder of the Town, a commingling of residential structures and commercial structures has resulted and continues to result in a self-sustaining, community-within-a-community pattern. It is the purpose of this district to achieve objectives designed for both the CI and LDR Districts in the Town.
- B. Uses.  
 [Amended 3-12-2002 ATM by Art. P-45; 3-8-2005 ATM by Art. P-9; 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-10-2009 ATM by P-09-15; Amended 3-13-2012 ATM by Art. P-12-28; 3-12-2013 ATM by Art. Z-13-7 and Z-13-19]
- (1) Permitted residential uses:
- (a) Single-family and duplex dwellings.
  - (b) Multifamily housing in a PRD.<sup>26</sup>
  - (c) Manufactured housing in a PRD.
  - (d) Accessory use or structure.
  - (e) Private/public nonprofit recreation.
  - (f) Essential services.
  - (g) Agriculture.
  - (h) Forestry.
  - (i) Accessory Dwelling Unit (ADU) in owner-occupied single-family dwellings.<sup>27</sup>
- (2) Permitted commercial/industrial uses.
- (a) Retail business.
  - (b) Wholesale business.
  - (c) Personal service business.<sup>28</sup>
  - (d) Business office.
  - (e) Professional office.
  - (f) Bank.
  - (g) Restaurant.
  - (h) Funeral establishment.
  - (i) Private service club.
  - (j) Commercial recreation.

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<sup>26</sup> See Article VI – Planned Residential Development (PRD) for further requirements.

<sup>27</sup> See Article VIII. – Accessory Dwelling Units (ADU) for further requirements.

<sup>28</sup> Must comply with additional requirements in Subsection D in the definition of "business" in Article II, § 220-2.

- (k) Vehicles, trailer, and recreational vehicle sales and service repair facilities.
  - (l) Publishing.
  - (m) Public use limited to public safety and service.
  - (n) Accessory use or structure.
  - (o) Storage of equipment/vehicles used to service a product.
  - (p) Essential service.
  - (q) Small industry.
  - (r) Bank kiosk.  
[Added 3-11-2008 ATM by Art. P-08-40]
  - (s) Day-care facilities.  
[Added 3-11-2008 ATM by Art. P-08-40]
  - (t) Produce stands.  
[Added 3-11-2008 ATM by Art. P-08-40]
  - (u) Fraternal, service and charitable uses.  
[Added 3-11-2008 ATM by Art. P-08-40]
  - (v) Nursing/convalescent homes.  
[Added 3-10-2009 ATM by Art. P-09-15]
  - (w) Place of Worship.
  - (x) Cemetery/Burial Site and Mausoleum.
  - (y) Bed and Breakfast Facility  
[Added 3-12-2013 ATM by Art. Z-13-19]
- (3) Allowed by special exception.  
[Amended 3-11-2008 ATM by Art. P-08-40; 3-10-2009 ATM by Art. P-09-15]
- (a) (Reserved)
  - (b) Home occupation.<sup>29</sup>
  - (c) (Reserved)
  - (d) (Reserved)
  - (e) Care and treatment of animals.<sup>30</sup>
  - (f) (Reserved)
  - (g) (Reserved)
  - (h) (Reserved)
- (4) Combined uses. A single-family dwelling may be combined with any of the following uses. [Amended ATM by Art. Z-13-8 & ATM 2015].
- (a) Place of Worship.

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<sup>29</sup> See Article X – Home Occupation for further requirements.

<sup>30</sup> See Table 220-32B, Subsection D, for additional criteria.



- (b) Retail business.
- (c) Wholesale business.
- (d) Personal service business.<sup>31</sup>
- (e) Professional office.
- (f) Funeral establishment.
- (g) Private service club.
- (h) Vehicle service repair facility.
- (i) Publishing.
- (j) All uses allowed by special exception.<sup>32</sup>  
[Added 3-11-2008 ATM by Art. P-08-41]
- (k) Accessory Dwelling Unit (ADU) in owner-occupied single-family dwellings.<sup>33</sup>  
[Added 3-12-2013 ATM by Art. Z-13-7]
- (l) Bed and Breakfast Facility  
[Added 3-12-2013 ATM by Art. Z-13-19]

C. Areas and dimensions.

[Amended 3-8-2005 ATM by Art. P-9]

- (1) Minimum lot size (area) per family: 110,000 square feet (all uses).  
[Amended 3-14-2006 ATM by Art. P-13]
- (2) Minimum frontage: 200 feet (all uses).
- (3) Minimum setbacks: refer to Table 220-32I for all uses.
- (4) Maximum lot coverage:
  - (a) For residential use: 20%.
  - (b) For commercial/industrial use only: 50%.  
[Amended 3-10-2009 ATM by Art. P-09-17]
  - (c) For combined use: 50%.  
[Amended 3-10-2009 ATM by Art. P-09-17]
- (5) Maximum footprint:
  - (a) For residential use: see "lot coverage."
  - (b) For commercial/industrial use only on the site: 8,000 square feet.
  - (c) For commercial/industrial portion of the combined use: 2,500 square feet (attached or detached).

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<sup>31</sup> **Must comply with additional requirements in Subsection D in the definition of "business" in Article II, § 220-2.**

<sup>32</sup> **Special exception still required, see footnotes on previous page for further requirements for the special exception uses.**

<sup>33</sup> **See Article VIII. – Accessory Dwelling Units (ADU) for further requirements.**

- (6) Maximum square footage:
  - (a) For residential use: See "lot coverage."
  - (b) For commercial/industrial use only on the site: two floors or 16,000 square feet, with the top floor restricted to nonretail use that is associated with the first-floor business only.
  - (c) For commercial/industrial portion of the combined use: two floors or 5,000 square feet, with the top floor restricted to nonretail use that is associated with the first-floor business only.
- (7) Corrals for all farm animals must be at least 50 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35]
- (8) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.  
[Amended 3-9-2004 ATM by Art. P-35, amended ATM 2015]
- (9) Chicken coops and rabbit hutches, less than 120 sq. ft. footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I. (Added ATM 2015)

#### D. Signs.

[Added 3-8-2005 ATM by Art. P-9]

- (1) All signs must comply with the provisions of Article IX unless otherwise noted in this subsection.
- (2) Residential use: 1 on-site, three-square-foot sign (attached or freestanding) is permitted. The freestanding sign and supporting structure may not exceed 6 feet in height.
- (3) Commercial/Industrial use (single business): 1 on-site, thirty-square-foot sign (attached or freestanding) is permitted. The freestanding sign and supporting structure may not exceed 10 feet in height.
- (4) Commercial/Industrial use (multiple businesses): 1 three-square foot, attached sign per business and 1 freestanding sign per lot are permitted. The freestanding sign and supporting structure may not exceed 25 feet in height or 150 square feet in area.
- (5) Combined use: 1 on-site thirty-square foot sign (attached or freestanding) is permitted. The freestanding sign and supporting structure may not exceed 10 feet in height.

Notes: All commercial/industrial and combined uses require site plan approval by the Town of Plaistow Planning Board.

**Table 220-32H**  
**"RCI" - Residential-Conservation I**  
 [Amended 3-13-2007 ATM by Art. P-07-31]

A. Objectives and characteristics. This District is intended to protect an identified potential water source for the town. The area regulated by this table shall be defined as that land area identified by the 1978 report to the Town of Plaistow by Fenton-Keyes Engineering. The area is generally described as the land area within the Kelly Brook watershed encompassed by the two-hundred-two-foot contour, terminating at the northerly end at the Hampstead Town line and at the southerly end by the site of the proposed reservoir dam. In addition, this District shall extend to include a three-hundred-foot protective buffer around the area described above.

B. Uses.  
 [Amended 3-11-2008 ATM by Art. P-08-39; 3-10-2009 ATM by Art. P-09-16; 3-12-2013 ATM by Art. Z-13-7]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Single-family residence.	5. Home Occupation <sup>34</sup>
2. Forestry.	6. (Reserved)
3. Agriculture.	
4. Accessory use or structure.	
5. Accessory Dwelling Unit (ADU) <sup>35</sup> (Owner-occupied only)	

C. Areas and dimensions.

- (1) Minimum lot size:
  - (a) Area: 5 acres.
  - (b) Frontage: 300 feet.
- (2) Minimum area per family: 5 acres.
- (3) Minimum yard dimensions: Refer to Table 220-32I.
- (4) Maximum height: 45 feet or three stories, whichever is less.
- (5) Corrals for all farm animals must be at least 50 feet from any lot line.  
 [Amended 3-9-2004 ATM by Art. P-35]
- (6) Structures (including, but not limited to, barns, sheds and stables) used to house any farm animals must be at least 100 feet from any lot line.  
 [Amended 3-9-2004 ATM by Art. P-35, amended ATM 2015]
- (7) Chicken coops and rabbit hutches, less than 120 sq. ft. footprint, are exempt from the 100 foot setback requirement, but must comply with all building setback requirements of §220-32I. (Added ATM 2015)

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<sup>34</sup> See Article X – Home Occupation for further requirements.

<sup>35</sup> See Article VIII – Accessory Dwelling Unit (ADU) for further requirements.

**Table 220-32I  
Minimum Dimensions for All Districts  
(feet)**

[Amended 3-9-2004 ATM by Art. P-33; 3-8-2005 ATM by Art. P-6; 3-14-2006 ATM by Art. P-15; 3-13-2007 ATM by Art. P-07-27; 3-13-2007 ATM by Art. P-07-30; 3-13-2007 ATM by Art. P-07-31; 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-9-2010 ATM by Art. P-10-R]  
Amended 3-13-2012 ATM by Art. P-12-31]

A. Structure setbacks.

<b>Zoning District</b>	<b>Front Setback</b> (Measured from front property line) (All dimensions are in feet)
Industrial I & II (Ind I & Ind II)	50
Commercial I (C I)	50
Commercial II (C II)	30
Village Center (VC)	30
Medium Density Residential (MDR)	35
Low Density Residential (LDR)	35
Residential Conservation I (RC I)	50
Residential Conservation II (RC II)	(See PRD requirements – Article VI)
Integrated Commercial-Residential (ICR)	50
<b>Use of Land within any District except CII and VC Districts</b>	<b>Side and Rear Setbacks</b>
Where land used industrially abuts a residential use	100
Where land used industrially abuts a commercial use	50
Where land used industrially abuts an industrial use	35
Where land used commercially abuts a residential use	50
Where land used commercially abuts a commercial use	35
Where land used commercially abuts an industrial use	35
Where an MDR residential use abuts any other land use	15
Where an LDR residential use abuts any other land use	25

A. Structure setbacks, Continued

<b>Use of Land within any District except CII and VC Districts</b>	<b>Side and Rear Setbacks</b>
Where an ICR residential use abuts any other land use	25
Where an RC I residential use abuts any other land use	25
Where an RC II residential use abuts any other land use	(See PRD requirements – Article VI)
Where a manufactured housing subdivision land use abuts any other land use	25
<b>Use of land within CII and VC Districts</b>	<b>Side and Rear Setbacks</b>
Where land used commercially abuts any other land use	20
Where land used residentially abuts any other land use	15

B. Pavement Setbacks.

No pavement will be placed in the buffer area(s) of commercial or industrial uses.

**NOTE:** For commercial and industrial site plans, also see Chapter 230, Site Plan Review Regulations, Article III, Landscaping, § 230-23, for additional buffer requirements for open space, screening, and landscaping.

C. Where a mixed use is proposed, the largest setback of the uses in the mixed use, shall be the required setback.

**Table 220-32J**

**“RCII” - Residential Conservation II**  
 [Added 3-13-2007 ATM by Art. P-07-31]

A. Objectives and characteristics. The purpose of this district shall be to make the most efficient use of the land and provide large contiguous areas for wildlife habitats. All open space is to be located in the center of the district. All plans submitted in this district will follow the PRD guidelines as specified in Chapter 220, Article VI.

B. Uses.  
 [Amended 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM; 3-11-2008 ATM by Art. P-08-38; 3-10-2009 ATM by Art. P-09-17; 3-12-2013 ATM by Art. Z-13-7]

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Single-family and duplex dwellings	11. Home occupation <sup>36</sup>
2. Multifamily housing in a PRD <sup>37</sup>	12. (Reserved)
3. Manufactured housing in a PRD	13. (Reserved)
4. Accessory use or structure	14. (Reserved)
5. Private/public nonprofit recreation	
6. Essential services	
7. Agriculture	
8. Forestry	
9. Place of Worship <sup>38</sup>	
10. Cemetery/burial site and mausoleum	
10.1. (Reserved)	
10.2. In-Law/Accessory Apartments <sup>39</sup> (Owner-occupied single-family only, not allowed in multifamily dwellings)	

C. Areas and dimensions: For new developments – See PRD Requirements except the 10-acre minimum does not apply. [Amended 3-12-2013 ATM by Art. Z-13-16]

D. Areas and dimensions: For existing lots of record with dwelling units – See MDR requirements. [Added 3-12-2013 ATM by Art. Z-13-16]

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<sup>36</sup> See Article X – Home Occupation for further requirements.  
<sup>37</sup> See Article VI – Planned Residential Development for further requirements.  
<sup>38</sup> See § 235 – Site Plan Review Requirements for further requirements.  
<sup>39</sup> See Article VIII – Accessory Dwelling Unit (ADU) for further requirements.

**Table 220-32K**  
**"INDII" - Industrial II**

[Added 3-10-09 ATM by Art. P-09-26; Amended 3-14-2017 by Art.Z-17-04]

A. Objectives and characteristics. The purpose of this district is to provide locations for the establishment of plants to improve employment opportunities and broaden the tax base in the community. These areas should be selected so that they will not adversely affect developed residential areas, will have good access to transportation facilities, and will have the potential for being served by public water and sewer systems. A variety of types of manufacturing activities, distribution facilities, and offices should be permitted, as well as certain support facilities, especially of a commercial nature.

B. Uses.

<b>Permitted Uses</b>	<b>Allowed by Special Exception</b>
1. Light industry	None
2. Warehouse	
3. Recycling facility (construction debris, household waste, and trash facilities are expressly prohibited)	
4. Outdoor storage	
5. Contractor's storage yard	
6. Publishing	
7. Research and testing labs	
8. Office	
9. Essential service	
10. Aviation use	
11. Public use limited to public safety, service and recreation	
12. Accessory use or structure	
13. Mini-storage	
14. Bank	
15. Bank kiosk	
16. <u>Manufacturing/Retail combined use</u> <sup>40</sup>	

C. Areas and dimensions.

- (1) Minimum lot size:
  - (a) Area: 80,000 square feet.
  - (b) Frontage: 150 feet.
- (2) Minimum yard dimensions: Refer to Table 220-32I.
- (3) Maximum lot coverage: 75%.
- (4) Maximum height: 45 feet or three stories, whichever is less.

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<sup>40</sup> A retail use may be combined with a manufacturing use provided the retail sales are predominantly for the purpose of selling the items manufactured in the associated manufacturing facility.

- (5) Minimum building setback: 50 feet from the front property line.
- D. No certificate of occupancy for any bank or bank kiosk use may be granted before at least one certificate of occupancy has been issued for an industrial use.
- E. In an industrial development, no more than 10% of the total building footprint for the development can be used for bank or bank kiosk uses.
- F. The intent of allowing a bank or a bank kiosk in an industrial zone is to provide a convenient service for the employees of the industries in an industrial zone.

**§ 220-33. Permitted uses.**

Permitted uses are those uses that are allowed providing the standards established by this chapter are met.

**§ 220-34. Dimensional requirements.**

The following dimensional standards shall apply:

- A. Minimum lot area. [Amended 3-14-2006 ATM by Art. P-7]
  - (1) For any main use the minimum lot size shall be specified in § 220-32 and measured as provided for in the definitions for lot measurement. Compliance with minimum lot size requirements shall be based on on-site soils survey analysis conducted by a qualified soils scientist using the High Intensity Soil Map Standards developed by the Society of Soil Scientists of Northern New England, 1986. With the exception of lot lines that must merge to meet the geometric configuration of an adjacent existing lot, opposing lot lines which define the perimeter of a subject lot shall be a distance of at least 50 feet apart.
  - (2) Wetland areas, defined in § 220-20, may not be used to satisfy minimum lot size requirements.
  - (3) Upland areas being used to satisfy minimum lot size must be contiguous.
- B. Front yard regulations and exceptions.
  - (1) Any lot line contiguous to a street is deemed to be a front lot line. A land area, located within a lot, which extends from a front lot line to the nearest building line shall constitute a front yard.
  - (2) Lot lines fronting on two streets shall be deemed to have two front lot lines and two side lot lines.
  - (3) Lot lines fronting on three streets shall be deemed to have three front lot lines and one side lot line.
  - (4) No building shall be built nearer to any street line than the minimum front yard specified in § 220-32 with the following exception:
    - (a) When the average setback of at least two existing residential buildings on the same side of the road and within 300 feet distance along the street from the boundary lines of the subject premises is less than the depth specified in § 220-32, an average of the existing setbacks shall be the required yard depth. [Amended 3-9-2004 ATM by Art. P-36]
    - (b) The exception defined in Subsection B(4)(a) above shall not be applied to planned residential developments.
  - (5) No accessory use or structure may occupy any part of a required front yard.
- C. Side yard regulations and exceptions. No building shall be built nearer to a side lot line than the minimum dimension specified in § 220-32 except as provided in Article VI (Planned Residential Development).



- D. Rear yard regulations and exceptions. No building shall be built nearer to a rear lot line than the minimum rear yard depth specified in § 220-32 except as provided in Article VI of this article.
- E. Height regulations and exceptions. Heights shall be as specified in § 220-32. (See Tables 330-32A to 330-32H inclusive.) No building or structure shall exceed the maximum heights specified in § 220-32. The provisions of this subsection shall not apply, however, to chimneys and conventional radio and television antenna installations.

**§ 220-35. Application of district regulations.**

Any legal nonconforming use existing on the effective date of this chapter may be continued indefinitely to the extent set forth in this chapter. Otherwise, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.

**§ 220-36. Front yard setback.**

Notwithstanding provisions for front yards elsewhere in these regulations, on streets with less than fifty-foot rights-of-way, the front yard requirement in any district shall be measured from the center line of the existing right-of-way, and 25 feet shall be added to the front yard requirement.

**§ 220-37. Lots in two zoning districts.**

Where a district boundary line divides a lot of record at the time such district boundary line is established, the regulations for either district of such lot shall extend not more than 30 feet into the other district, provided the lot has frontage on a street in the district for which the use is being granted.

**§ 220-38. Building coverage, open porches, carports and garages.**

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

**§ 220-39. Reduction of lot area.**

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

**§ 220-40. Required area of yards.**

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

**§ 220-41. Projection in yards.**

Every part of a required yard shall be open from finished ground level to the sky, unobstructed, except for the ordinary projections of sills, cornices, pilasters, chimneys and eaves, provided that no such projections may extend more than two feet into any required yard.

**§ 220-42. (Reserved)** <sup>41</sup>

**§ 220-43. Temporary uses and structures.**

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<sup>41</sup>. Editor's Note: Former § 220-42, Location of driveways, as amended, was repealed 3-8-2005 ATM by Art. P-2. See now § 220-9.1.

Temporary permits may be issued by the Building Inspector for a period not exceeding one year for nonconforming uses incidental to construction projects, provided such permits are conditioned upon agreement by the owner to remove the structure or use upon expiration of the permit. Such permits may be renewed upon application for an additional period of six months as long as construction is active.

**§ 220-44. Excavations.**

- A. Time limit. Within six months after work on an excavation for a building has begun, the excavation thus remaining shall be covered with building construction or filled to normal grade by owners.
- B. Abandoned excavations. For safety purposes, abandoned excavations with slopes exceeding one horizontal to two vertical shall be protected by a fence at least four feet in height.

**ARTICLE VI**  
**Planned Residential Development (PRD)**

**§ 220-46. Objectives and purpose.**

The objective and purpose of allowing PRD's is to encourage the use of the land in such a manner that open spaces, wetland areas, topographical extremes, and other considerations can be addressed with a view to preserving and protecting the natural attributes of areas which sometimes suffer as a result of the allowed "grid" concept.

**§ 220-47. General requirements.**

[Amended 3-11-2013 ATM by Art. Z-14-4]

- A. The tract of land in a single or consolidated ownership at the time of application shall be at least 10 acres in size, and the plan shall be subject to approval by the Planning Board under its subdivision and site plan review regulations for the Town of Plaistow.
- B. Minimum frontage of the PRD shall be 200 feet, which may consist of two separate private rights-of-way onto an existing public street provided no access is less than 50 feet in width and at least 100 feet must exist between the centerlines of the 2 access rights-of-way.
- C. Residential uses in a PRD shall be limited to dwelling structures accommodating such use only.
- D. All zoning regulations of the Town of Plaistow apply, except as specified herein.
- E. The residential density of that area to be developed shall not exceed eight dwelling units per acre, and in no case shall there be more than four dwelling units per structure.
- F. The following uses shall be permitted: one-family, two-family, up to four-unit townhouse dwelling, manufactured/mobile home housing, and incidental private recreational uses. Manufactured/mobile home housing developments created for the placement of manufactured housing either on individually owned lots in subdivisions or in manufactured housing parks shall be designed exclusively for such housing.
- G. Emergency vehicle access shall be provided to all structures within the PRD.
- H. If any part of the PRD is going to be part of a condominium, then a condominium subdivision plan and all associated condominium documents must be reviewed by the Planning Board attorney and approved by the State of New Hampshire. Such plans and documents must be recorded at the Rockingham County Registry of Deeds.
- I. If any kind of homeowner's association is to be formed, than declarations, bylaws and/or covenants pertinent to the association must be reviewed by the Planning Board Attorney prior to submittal and approval by the State of New Hampshire Attorney General. All such legal documents must be recorded at the Rockingham County Registry of deeds.

**§ 220-48. Specific design requirements.**

- A. A site plan of the entire tract shall be presented to the Planning Board of the Town of Plaistow.
- B. The number of dwellings permitted in a PRD shall be computed as follows:

- (1) The areas of water bodies, wetlands, Class V and VI soils, and fifteen-percent and greater slopes shall be subtracted from the total acreage of the tract. The remaining area shall be divided by the minimum lot size allowed in the district in which a PRD is located. The resulting number shall be multiplied by 90% to obtain the maximum number of dwellings permitted in a PRD.
  - (2) Under no circumstances shall the residential density in the PRD exceed that allowed in the district in which the PRD is located.
- C. A minimum of 50% of the PRD site area shall remain as open space. Parking areas, streets, driveways, and other vehicle access facilities shall not be considered in calculating open space. The combined area of wetlands and slopes over 15% may not exceed 30% of the open space. This information must be stated on all plans. [Amended 3-12-2002 ATM by Art. P-32 and 3-11-2013 ATM by Art. Z-14-6]
- D. Water supply and waste treatment systems.
- (1) The water supply and waste treatment system for a PRD shall be designed in accordance with the standards and requirements of the New Hampshire Water Supply and Pollution Control Commission. [Amended 3-8-2005 ATM by Art. P-19]
  - (2) A two-hundred-fifty-foot well radius within the parcel shall be limited in development to well construction and an access road to a pump house.
- E. No building or structure in the PRD shall be located closer than 50 feet to the PRD perimeter in an MDR District and 100 feet in an LDR District (or closer than 100 feet to a Town road network in all districts).
- F. Heights of structures shall not exceed those permitted for the district in which the PRD is located.
- G. PRD lot requirements.
- (1) No dwellings in the PRD shall front any public street, existing or proposed, unless the street provides access exclusively to the PRD and is situated entirely within the PRD.
  - (2) There shall be a minimum depth of 30 feet between the edge of the nearest private right-of-way and/or driveway of any building or structure.
  - (3) Dwelling units shall not be located closer than 50 feet to each other.
  - (4) Accessory uses or structures shall not occupy front yard and shall be a minimum of five feet from side and rear lot lines. [Added 3-13-2001 ATM by Art. P-36]
- H. Each dwelling must be served by its own driveway.

**§ 220-49. Roadways. [Amended 3-9-2004 ATM by Art. P-42]**

All roadways shall be public and shall be constructed to Town subdivision regulation requirements.<sup>42</sup>

**§ 220-50. Procedures to be adopted by Planning Board.**

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<sup>42</sup>. Editor's Note: Former Subsection B, which immediately followed and which provided regulations for maintenance of private roads, was repealed 3-9-2004 ATM by Art. P-43.

The Planning Board shall adopt such procedures as part of the subdivision regulations as it may deem necessary in order to ensure sufficient public review of any PRD proposal and to ensure compliance with these and other Town ordinances and regulations.

**ARTICLE VII**  
**(Reserved)**<sup>43</sup>

§ 220-51. (Reserved)

§ 220-52. (Reserved)

§ 220-53. (Reserved)

§ 220-54. (Reserved)

§ 220-54.1. (Reserved)

§ 220-55. (Reserved)

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43. Editor's Note: Former Art. VII, Elderly Housing District, as amended, was repealed 9-18-2007 STM.

**ARTICLE VIIA**  
**Access Management Overlay District**  
**[Added 3-12-2002 ATM by Art. P-30]**

**§ 220-55.1. Purpose; applicability.**

This overlay district has been established as a method for managing access and applies to the C1 and Industrial Zoning Districts and provides for a special set of requirements. The purpose of this overlay district is to provide for the orderly development/redevelopment of the state roadways in these zoning districts. Prospective developers of properties along the corridors should be required to incorporate and construct the appropriate components of the following specifications into their development plans.

**§ 220-55.2. General requirements.**

The underlying zoning and its associated requirements are retained and must be referred to in addition to the following set of requirements:

- A. The minimum building setback shall be 50 feet from the front property line. Undeveloped front yards are required to be no less than 12 feet in width. [Amended 3-9-2004 ATM by Art. P-33; P-45; 3-8-2005 ATM by Art. P-3; 3-9-2010 ATM by Art. P-10-Q]
- B. Frontage. Within zoning districts where the minimum lot size is 80,000 square feet, the minimum frontage required is 150 feet.
- C. Driveway turnaround areas. Driveway turnarounds shall be provided in order to eliminate backing out onto the state roadways.
- D. Setbacks for signs. Freestanding sign location(s) should be sufficiently regulated so that they provide adequate information without causing confusion for the traveling public. Specific setback requirements must be based upon several factors, including the posted speed of the road, building setback requirements, dimensional standards for size, including area and height, and lighting method.
- E. Minimum distances between driveways.
  - (1) The minimum distance between driveways on the same and opposing sides of the state roadway, including all road intersections, shall be measured from the center line of the driveways at the right-of-way line and shall be a function of the posted speed in accordance with the following table:

**Table AM-1: Minimum Distances Between Driveways**

Driveway Spacing (feet)	Maximum Speed (mph)
150	35
185	40
230	45
275	50

SOURCE: "Access Management for Streets and Highways," Federal Highway Administration, 1982.

- (2) The center lines of all new driveways should be aligned with driveways, and road intersections on the opposing side of the roadway, if they exist. If such an alignment is not feasible, the driveways should be offset in accordance with Subsection E above.
- F. Driveway width. Commercial driveways should not exceed 36 feet in width, measured perpendicular to the driveway at its narrowest point. The driveway should be flared at the property line with minimum radii of 25 feet. All driveway entrances (regardless of the presence of curbing on the state roadway) should be curbed from the state roadway to at least the end of the radii at the driveway throat.
- G. Maximum number of driveways per lot. Lots which have frontage only on a state roadway are allowed a singular driveway, except that two one-way driveways may be substituted for a singular driveway, provided that the minimum required distance between driveways can be met.
- H. Shared driveways. In order to minimize the number of driveways along the state roadway, shared driveways should be provided for adjacent sites. The following dimensional requirements may be reduced if shared driveways are provided as follows:
  - (1) The minimum lot size and the minimum road frontage should be reduced by a total of 10% if a single shared driveway with an adjacent site accesses the entire site.
  - (2) The minimum lot size and the minimum road frontage should be reduced by a total of 20% if the entire site is accessed by a single shared driveway with an adjacent site on a roadway other than the state roadways, and which is appropriately zoned for the use.
- I. Interconnecting driveways. All projects shall provide interconnecting driveways or easements for future construction of driveways that will provide and promote vehicular and pedestrian access between adjacent lots, without accessing the state roadway to all property lines, and should be designed to provide safe and controlled access to adjacent developments where they exist.
- J. Access to lots with multiple frontage. Lots with frontage on both the state roadway and an adjacent or intersecting road are not permitted to access the state roadway, except where it can be proven that other potential access points would cause greater environmental or traffic impacts.
- K. Driveway throat length. The minimum length of a driveway should be of adequate length to accommodate the queuing of the maximum number of vehicles, as defined by the peak period of operation identified in the traffic study.
- L. Adequate on-site circulation and storage. Adequate number of parking spaces, aisle widths, raised medians and tractor-trailer access shall be provided in order to promote safe and efficient movement into and out of the site.



**ARTICLE VIII**  
**Accessory Dwelling Units - ADUs**  
**[Amended 3-14-2017 by Art. Z-17-01].**

**§ 220-56. Purpose.**

- A. The purpose of the accessory dwelling unit is to provide a housing alternative, while maintaining the health, safety and neighborhood aesthetics and quality.

**§ 220-57. General Requirements.**

Accessory dwelling units are allowed if they comply with the following:

- A. The accessory dwelling unit shall be designated so that the appearance of the building remains that of a single-family dwelling. Any new entrances shall be located on the side of rear of the building. Where accessory dwelling units are attached to the primary dwelling unit, there shall be a connecting door.
- B. The single-family dwelling shall not be a mobile home. Accessory Dwelling Units are permitted in condominium units with written authorization from the condominium association. There shall not be more than one accessory dwelling unit per parcel.
- C. The size of the accessory dwelling unit shall not be greater than 1,000 square feet.
- D. At least one of the units, either the primary or secondary dwelling unit, must be owner occupied.
- E. No more than 2 bedrooms are permitted in the accessory dwelling unit.
- F. RESERVED [Amended 3-14-2017 by Art. XX].
- G. The accessory dwelling unit and lot shall not be converted to a condominium or any other form of legal ownership distinct from ownership of the existing single-family dwelling unit.
- H. Prior to granting a building permit for a new accessory dwelling unit, or a certificate of occupancy for an existing accessory dwelling unit, the property owner shall provide to the Building Inspector the following:
  - (1) The applicant for a new accessory dwelling unit, or an existing accessory dwelling unit without a State approved septic design, shall provide the Building Inspector's Office with a State of New Hampshire approved septic design. Any septic design shall specifically call out the number of bedrooms in the primary dwelling and the accessory dwelling unit separately. Prior to submission of any septic design to New Hampshire Department of Environmental Services, a test pit will be done and witnessed by the Town's

Health or Deputy Health Officer and the proposed design shall be reviewed for compliance with all Zoning Ordinances.

- (2) A floor plan of one-fourth-inch-to-the-foot scale showing the proposed changes to the building.
  - (3) A sketch plan (drawn to scale) of the lot, with existing and proposed structures and parking.
- I. All utilities in the accessory dwelling unit shall use the existing utility meters.
  - J. Accessory dwelling units may be rented, and the property owner shall apply for a certificate of occupancy for any new tenant under a lease of more than a one year term. A new certificate of occupancy shall be issued when the accessory dwelling unit is first constructed or thereafter remodeled. Before a certificate of occupancy will be issued, the unit shall be inspected for compliance with building and life safety codes.
  - K. If a home with an accessory dwelling unit is sold, the new property owner shall make an application to the Department of Building Safety for a certificate of occupancy for the new tenant, under the provisions in letters A through J in this ordinance.
  - L. Accessory dwelling units may be added to single-family residence, an attached garage, or a detached garage. The garage units may be added on the same floor as the garage proper or may be built as a second story to the garage.
  - M. For lots exceeding 160,000 square feet, an accessory dwelling unit may be added as a stand-alone structure provided all other provisions of this ordinance are met.

## ARTICLE IX

### Signs

**§ 220-58. All Districts.** [Added 3-8-2005 ATM by Art. P-17; amended 3-10-2009 ATM by Art. P-09-19]

The following definitions shall apply to all sections of Article IX. [Added 3-10-2009 ATM by Art. P-09-19]

- (1) Flag: Only the official flags of countries, states, and government agencies (United Nations and US military flags) shall be considered flags for the purpose of this ordinance. All proper flag etiquette must be observed. Flags shall not be considered signs and shall be exempt from the provisions of this ordinance except that if more than one (1) flag is flown, there must be at least 30 feet between the flag poles or supporting structures.
- (2) Sign: Any material attached to a structure, a pole, or some object such as a rope or wire between structures, poles, or the ground shall be considered a sign and subject to the provisions of this ordinance.

A. Signs may be erected for the following purposes:

- (1) Nameplates and identification signs.
- (2) Reserved.<sup>44</sup>
- (3) Institutional signs.
- (4) Development signs.
- (5) Political signs.
- (6) Signs indicating the name and nature of an approved home occupation.
- (7) Contractor signs.
- (8) "Help Wanted" signs.

B. Exempted signs do not count in sign totals and hence do not need a permit.

[Added 3-10-2009 ATM by Art. P-09-25]

Exempted signs:

- (1) Yard sale signs.
- (2) Signs no larger than three (3) feet by five (5) feet with one (1) of the following words:
  - (a) "Open"
  - (b) "Closed"
  - (c) "Welcome"

Only one (1) of these signs may be displayed at the same time to qualify for the exemption. [Added 3-10-2009 ATM by Art. P-09-25]

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<sup>44</sup> Editor's note: Property sale and rental signs were removed 3-10-2009 ATM by Art. P-09-21

- (3) Help Wanted signs [Added 3-10-2009 ATM by Art. P-09-25]
- (4) Political signs [Added 3-10-2009 ATM by Art. P-09-25]
- C. Identification signs for shopping centers and industrial parks. [Added 3-14-2006 ATM by Art. P-15]
  - (1) A shopping center or industrial park may have one common sign containing a registry of all tenants/occupants, provided the following requirements are met:
    - (a) It is a freestanding sign.
    - (b) The names of individual tenants/occupants shall appear in letters of uniform style and size.
    - (c) It shall not exceed 25 feet in height, inclusive of the structure supporting the sign.
    - (d) The total area of the sign and structure shall not exceed 150 square feet, with the air space below the sign calculated as part of the 150 square feet.
    - (e) It shall be located within the front buffer and 100% on the property to which it pertains and be constructed so as not to impair site distance or traffic safety.
    - (f) Illumination of the sign, whether internal or external, shall not create conditions that are dangerous to the comfort, peace, enjoyment, health, or safety of the community or lead to its disturbance or annoyance.
  - (2) Attached signs shall conform to Subsection A above.
- D. All free standing signs are required to have a street address that includes the street name and number and that is a minimum of six inches for signs for commercial/industrial uses in the I1, I2, CI and ICR Districts; a minimum of three inches for commercial uses in the CII and VC District; and a minimum of three inches for signs for residential uses in all Districts. The space required for the address portion of the sign shall not be counted as part of the required sign size [Added 3-13-2012 ATM by Art. P-12-27, Amended March 2015 ATM]

**§ 220-58.1. Residential districts.** [Amended 3-8-2005 ATM by Art. P-17; Amended 3-8-2016 ATM by Art. Z-16-02]

Permitted signs in the residential districts are subject to the following limitations:

- A. No sign may be larger than three square feet.
- B. Only one sign may be erected per lot or parcel.
- C. Both sides of a freestanding sign may be used.
- D. Signs may be erected to designate the name of a residential subdivision. The size of the sign may not exceed eight square feet [Added 3-8-2016 ATM by Art. Z-16-02]

**§ 220-59. Commercial I and Industrial Districts.**

- A. Attached signs. An "attached sign" is defined as a name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building. Each business and/or industry shall be allowed up to two signs attached to a building facade, provided that the following restrictions are met: [Amended 3-11-2003 ATM by Art. P-16; 3-11-2008 ATM by Art. P-08-27]
- (1) If both signs are attached to the same building facade, then the total square footage of both signs shall not exceed 10% of the building facade to which they are affixed.
  - (2) If the signs are attached to different building facades, then one sign shall not exceed 10% of the facade to which it is affixed and the other sign shall not exceed 5% of the facade to which it is affixed.
  - (3) The building facade is calculated by measuring from roofline to foundation and subtracting out any glass.
- B. Freestanding signs.
- (1) A "freestanding sign" is defined as a name, identification, description, display, or illustration which is not attached to a building but which is an integral part of a structure, standing alone, whose supports are embedded directly in the earth or upon an open, man-made foundation covering the earth and built specifically to accommodate such signage.
  - (2) Freestanding signs are not permitted except for shopping centers and industrial parks having two or more businesses or industries.
  - (3) The Building Inspector may grant a permit for a single sign for a single business provided the sign is in keeping with the intent expressed in this article and provided its dimensions are the same as those required for an attached single sign of no more than 30 square feet, as stated in Subsection A above.
  - (4) The Building Inspector may grant a permit for a single sign for a single business provided the sign is in keeping with the intent expressed in this article and provided its dimensions are no more than 50 square feet, if 20 square feet of that freestanding sign is permanently dedicated as a manual reader board. [Added 3-10-2009 ATM by Art. P-09-24]
- C. Identification signs for shopping centers and industrial parks.
- (1) A shopping center or industrial park may have one common sign containing a registry of all tenants/occupants provided the following requirements are met:
    - (a) It is a freestanding sign.
    - (b) The names of individual tenants/occupants shall appear in letters of a uniform style and size.
    - (c) The total area of the sign and structure shall not exceed 150 square feet, with the air space below the sign calculated as part of the 150 square feet.

- (d) It shall be located and constructed so as not to impair traffic safety.
- (e) Illumination of the sign, 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.

(2) Attached signs shall conform to Subsection A above.

**§ 220-60. Commercial II District and Village Center District.** [Village added ATM 2015]

Signs for permitted commercial uses within the Commercial II & the Village Center Districts shall be no more than 15 square feet. No width dimension shall exceed five feet and height measurement shall exceed seven feet, inclusive of the post or pedestal upon which the sign is mounted. Such signs may include a registry of tenants/occupants whose business takes place within the commercial structure. Such a common sign shall utilize a uniform letter style and size. No more than one sign is permitted per lot.

- A. All signs in a Commercial II District shall consist of wood construction only, shall be illuminated with indirect lighting only, and shall be in keeping with the character of Main Street.
- B. The Planning Board, if deemed necessary, shall retain the services of a landscape architect and professional sign maker to assure compliance with Subsection A above at the applicant's expense.
- C. The following signs are not permitted in the CII District: [Added 3-11-2003 ATM by Art. P-18]
  - (1) Attached signs.
  - (2) (Reserved)<sup>45</sup>
  - (3) Banners.

**§ 220-60.1. Integrated Commercial Residential District.** [Moved from ICR District regulations 3-12-2013 ATM by Art. Z-13-15]

- A. Residential use: 1 on-site, three-square-foot sign (attached or freestanding) is permitted. The freestanding sign and supporting structure may not exceed six (6) feet in height.
- B. Commercial/Industrial use (single business): 1 on-site, thirty-square-foot sign (attached or freestanding) is permitted. The freestanding sign and supporting structure may not exceed 10 feet in height.
- C. Commercial/Industrial use (multiple businesses): 1 three-square foot, attached sign per business and 1 freestanding sign per lot are permitted. The freestanding sign and supporting structure may not exceed 25 feet in height or 150 square feet in area.
- D. Combined use: 1 on-site thirty-square foot sign (attached or freestanding) is permitted. The freestanding sign and supporting structure may not exceed 10 feet in height.

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<sup>45</sup> Editor's note: Subsection C(2) , Temporary Signs, was repealed 3-9-2004 ATM by Art. P-43.

**§ 220-61. Prohibited signs.** [Amended 3-14-2017 ATM by Art. Z-17-06]

- A. The following types of signs are expressly prohibited in all districts unless otherwise provided for in this article:
- (1) Off-site signs.
    - (a) Exemption: One (1) real estate sign may be placed in front of a parcel or unit for sale, lease, or rent without a permit. [Added 3-10-2009 ATM by Art. P-09-22]
  - (2) Animated, moving, flashing, intensely lighted signs and signs that emit audible sound, noise, or visible matter.
- B. No person shall park a vehicle or trailer on a public right-of-way or public property, or on private property so as to be visible from the public right-of-way, which is attached thereto or providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises. This subsection is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle.
- C. Banner, pennants, searchlights, twirling signs, A-frame signs, sandwich board signs, sidewalk or curb signs, balloons or other gas-filled figures shall not be used except as provided in § 220-62.
- D. Fences or any other wall which is not structurally a part of a building may not be used for a sign except to identify a residence.
- E. It shall be unlawful to affix, attach, or display any advertisement upon any object of nature, utility pole, telephone booth or highway sign.
- F. Digital signs are prohibited. [Added 3-12-2002 ATM by Art. P-40]

**§ 220-62. Temporary signs.**

- A. Permits may be issued for posters and banners, securely attached to the building, which describe a special sale or promotion. Total area of such signs shall not exceed 30 square feet and the number of occasions shall not exceed eight times per year. "Securely" means attached to the flat portion of the building wall with all four corners secured to the wall. [Amended 3-11-2003 ATM by Art. P-19]
- B. Permit duration; content, size and fee.
- (1) Portable or wheeled sign permits may be issued for a period of 30 days. [Amended 3-11-2008 ATM by Art. P-08-28]
    - (a) For business locations with 10 or fewer businesses, no more than one (1) thirty-day permit shall be issued at the same time.
      - [1] No single business shall be issued a permit for a temporary sign more than nine (9) times in the same calendar year or for more than three (3) consecutive months. [Amended 3-10-2009 ATM by Art. P-09-20]
    - (b) For business locations with eleven (11) or more businesses, no more than four (4) thirty-day permits shall be issued at the same time. [Amended 3-10-2009 ATM by Art. P-09-20]

- (1) No single business shall be issued a permit for a temporary sign more than six (6) times in the same calendar year or for more than three (3) consecutive months.
  - (2) No single business shall be issued more than one (1) thirty-day permit at the same time.
- (2) Temporary signs shall pertain to the business conducted on the premises upon which they are to be located. Temporary signs shall be no larger than 32 square feet. The fee shall be as set forth in the Planning Board Fee Schedule.<sup>46</sup> [Amended 3-11-2008 ATM by Art. 42]
- C. All signs shall pertain to the business conducted on the premises upon which they are to be located. [Amended 3-11-2008 ATM by Art. P-08-29]
  - D. Temporary signs shall not be installed on in-ground posts or anything else of a visible permanent or semi-permanent nature. [Added 3-11-2008 ATM by Art. P-08-30]
  - E. Temporary signs may be internally lit; no permanent or temporary external lighting is to be installed to illuminate temporary signage. [Added 3-11-2008 ATM by Art. P-08-30]
  - F. If the business owner is not the property owner, then the property owner’s written permission is required to issue a thirty-day temporary sign, banner or poster permit. [Added 3-11-2008 ATM by Art. P-08-30]
  - G. If a business is issued two (2) consecutive notices of violation for the display of a temporary sign without a permit then no temporary sign permit shall be issued to that business for a period of six (6) months. [Added 3-10-2009 ATM by Art. P-09-23]
  - H. If a business has been suspended from obtaining a temporary sign permit, and a temporary sign is still displayed then a fine of \$50.00 per sign/per day may be assessed by the Code Enforcement Officer. [Added 3-10-2009 ATM by Art. P-09-23]
  - I. Any person carrying a sign that is advertising a business, sale, or promotion shall be considered to be carrying a temporary sign and all provisions of the Temporary Sign Ordinance permitting process shall apply. [Added 3-12-2013 ATM by Art. Z-13-10]
  - J. Grand Opening Sign Package Permit [Added 3-12-13 ATM by Art. Z-13-11]
- New Plaistow businesses, Plaistow businesses that have undergone major renovations, or Plaistow businesses that have had a change in ownership qualify for the Grand Opening Sign Package Permit. Company-wide celebrations of new branch locations in other locations do not qualify.

Grand Opening Events must commence within ninety (90) days of the issuance of the Certificate of Occupancy for the qualifying business.

A Grand Opening Sign Package Permit includes:

- Up to two (2) banners, securely attached to the building’s façade by all four corners;

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1. Editor’s Note: The Planning Board Fee Schedule is on file in the Town offices.



- Up to three (3) forms of temporary signage, i.e. A-Frame Signs, Wheeled Signs, Wave Runners, Feathers. (All temporary signs must be of the like and type currently allowed and must be affixed or displayed in accordance with all sections of the Sign Ordinance);
- Buntings, securely attached to the building's façade;
- Pennants;
- Inflatable's;
- Hot Air Balloons

Other than Hot Air Balloons, any other type of balloon (latex, mylar, etc.) is not permitted with a Grand Opening Sign Package Permit.

All signs permitted under the Grand Opening Sign Package Permit must be located and displayed on the property of the business for which the permit is issued. No off-site signage is allowed.

Any other signage that would not already be allowed under other sections of this Sign Ordinance is also not permitted with a Grand Opening Sign Package.

The cost of the Grand Opening Sign Package Permit is \$100.00.

The duration of the Grand Opening Sign Package Permit is one (1) week.

**§ 220-63. Roof signs.**

Roof signs are not permitted except for mansard roofs where the sign is attached to a vertical portion.

**§ 220-64. Franchise requirements.**

Commercial franchise businesses which, by franchise agreement, are required to provide signs incompatible with this chapter must provide copies of franchise contracts or agreements which require the sign as condition of franchise operation. Such signs are subject to the approval of a special exception by the Board of Adjustment.

**§ 220-65. Permit required.**

- A. All regulated signs require a permit in all districts.
- B. The permit approval is for the sign presented in the application only. Any and all new signs, including replacement signs, require that a new permit be issued. [Added 3-11-2003 ATM by Art. P-20]
- C. All internally lit signs must be UL listed. [Added ATM 2015]

## **ARTICLE X**

### **Home Occupation**

#### **§ 220-66. Permitted uses.**

Business uses clearly secondary to the home may be permitted, by special exception from the Zoning Board of Adjustment, to allow a place to work within their legal residence for persons in one of the following professions, occupations or trades:

- A. Attorney, architect, consultant, personal service business, engineer, real estate agent, insurance agent or similar recognized profession. [Amended 3-14-2006 ATM by Art. P-8]
- B. Artist, craftsman, daycare (caring for not more than six children not living in the home, seamstress), one-chair beauty parlor, teaching not more than four pupils simultaneously in addition to those living in the home, and other similar occupations. [Amended 3-9-2010 ATM by Art. P-10-P]
- C. Tradesman, repairman, contractor and other similar self-employees (see § 220-13).
- D. Doctors, dentists and other medical or mental health specialists using home occupation will only be permitted within ICR or CII Zones (see § 220-28).

#### **§ 220-67. Conditions.**

- A. Such business use shall not be injurious, noxious or offensive to the neighborhood by reason of emission of odor, fumes, dust, smoke, vibration, and noise. No equipment or process will be allowed that creates visual, audible or electrical interference or causes fluctuations in voltage off premises.
- B. Use by owner or tenant in one- or two-family dwellings with owner's written permission. The residential use is established prior to the business use.
- C. The business use is conducted within the residential building and does not exceed 25% of the total normal living area of the residence. The normal living area is that portion of the residential building of living room/s, kitchen/s, dining room/s, family room/s, den/s, bathroom/s, laundry room/s and bedroom/s.
- D. The business use shall not change the residential character of the dwelling and the property. Storage in an accessory use or structure or exterior storage may be permitted by special exception granted by the Zoning Board of Adjustment. Exterior storage must be screened from neighboring views by either a solid fence, evergreens of an adequate height and bulk at the time of planting or by an existing combination of natural foliage and longer distances, to be determined sufficient by the Code Enforcement Officer.
- E. Not more than one sign or other advertising device is to be displayed on the property and it shall not exceed a size of three square feet. Signs will not be lighted from within or by exterior spot lighting in Residential Zones ICR, LDR, MDR. (See § 220-28.) [Amended 3-13-2007 ATM by Art. P-07-33; 9-18-2007 STM]
- F. A home business use will meet the following criteria:
  - (1) Not more than one person not residing in the home is to be employed on the premises at the same time.

- (2) No outside merchandise display.
- G. Sufficient off-street parking for the employee and clients is to be provided. Any required deliveries can only be made by vehicles consistent with normal residential activities between the hours of 7:00 a.m. and 7:00 p.m. The outside parking of not more than two business vehicles for each dwelling unit on the lot is permitted in all residential districts provided the vehicles:
- (1) Do not exceed one ton capacity (manufacturer's rating).
  - (2) Are used as a means of transportation to and from the resident's place of business.
  - (3) Are not loaded with flammable, noxious or dangerous materials.
  - (4) Must conform with § 220-13.
- H. The business shall not be contrary to any covenants of conditions contained on the deed to the property.
- I. Any applicant who resides in a condominium unit, in addition to obtaining permission from the owner, if the applicant is not the owner, must submit, at the time of application, written permission from the governing condominium association or Board of Directors. [Added 3-9-2004 ATM by Art. P-38]
- J. There shall only be one (1) home occupation per dwelling unit. [Added 3-11-2014 ATM by Art. Z-14-7]

**§ 220-68. Application for special exception; inspections.**

- A. Special exceptions granted under this article are intended to allow for a specific business use by the current residents and, as such, shall not be transferable to subsequent occupants. To apply for an exception, the proper forms must be filled out and returned to the Zoning Board of Adjustment. The applicant is required to provide:
- (1) A sketch and/or drawing of the floor plan of the residence, clearly showing the dimensions of the living area and the area to be used for the business and plot plan of the property showing provisions for off-street parking.
  - (2) A copy of the deed must be submitted to the Board when applying for an exception.
  - (3) An accurate list of abutters and mailing addresses on labels.
- B. Before a permit is granted, mandatory building inspections shall be made by the Code Enforcement Officer if the public is to be served at the proposed location or if hazardous materials are to be stored there. In addition, a formal site plan review by the Planning Board may be required if deemed necessary by the Code Enforcement Officer.
- C. Periodic inspections of the home occupation premises may be required subsequent to the issuance of a permit in order to confirm compliance with the conditions of the original special exception granted. If, in the opinion of the Code Enforcement Officer, the business practices originally set forth and defined in the initial approval have changed, the Code Enforcement Officer shall revoke the permit that was issued. Permit holders whose permits are revoked may make application to the Board of Adjustment for a new permit based on the changed circumstances of the home occupation.

- D. Application for a home occupation permit shall be made to the Building Department on a form provided by the Building Department and shall be accompanied by a fee as set forth in the Planning Board Fee Schedule.<sup>47</sup> All home occupation permits shall be issued for a period of three years and may be renewed provided there is no violation of the provisions of this article. Requests for renewals shall be submitted to the Building Department accompanied by the renewal fee as set forth in the Planning Board Fee Schedule prior to the expiration of the permit. [Amended 3-11-2008 ATM by Art. 42]

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<sup>47</sup>. Editor's Note: The Planning Board Fee Schedule is on file in the Town offices.

## **ARTICLE XI**

### **Excavations**

#### **§ 220-69. Definitions.**

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

**EARTH** — Sand, gravel, rock, soil, or construction aggregate produced by quarrying, crushing or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.

**EXCAVATION** — Land area which is used, or has been used, for the commercial taking of earth, including all slopes.

**EXCAVATION SITE** — Any area of contiguous land in common ownership upon which excavation takes place.

#### **§ 220-70. Permit required.**

- A. No owner shall permit any excavation of earth on his premises without first obtaining a permit pursuant to the requirements of Chapter 155-E, New Hampshire Revised Statutes Annotated, hereinafter referred to as RSA 155-E, and the requirements of this article.
- B. Exceptions.
- (1) Existing excavations. The owner of an excavation which lawfully existed and was in use on or before August 24, 1979, may continue such existing excavation on the excavation site without a permit.
  - (2) Stationary manufacturing plants. No permit shall be required for excavation from an area which is contiguous to or is contiguous land in common ownership with stationary manufacturing and processing plants which were in operation as of August 24, 1979, which use earth obtained from such areas and/or for which local or state permits have been granted since August 24, 1979.
  - (3) Highway excavations. No permit shall be required for excavation performed exclusively for the lawful construction, reconstruction, or maintenance of a Class I, II, III, IV or V highway by a unit of government having jurisdiction for the highway or an agent of the unit of government which has a contract for the construction, reconstruction, or maintenance of the highway; provided, however, that:
    - (a) A copy of the excavation agreement executed by the owner, agent, and governmental unit is filed with the Planning Board prior to the start of excavation.
    - (b) Such excavation shall not be exempt from the operational and reclamation standards of RSA 155-E:4-a, 155-E:5 and 155-E:5-a, this article, and any other applicable ordinances, unless an exemption is granted by the New Hampshire Department of Transportation pursuant to the requirements of RSA 155-E:2, IV(c).
  - (4) Exceptions shall not apply to any abandoned excavations as defined in RSA 155-E:2, II.

C. Other exceptions. [Amended 3-13-2007 ATM by Art. P-07-34]

- (1) No state permit shall be required for an excavation not to exceed 5,000 cubic yards in a twelve-month period that is exclusively incidental to the construction or alteration of a building or structure or the construction or alteration of a parking lot or way, including a driveway on a portion of the premises where the removal occurs, provided all state and local permits required for the construction or alteration of the building, structure, parking lot, or way have been issued.
- (2) No state permit shall be required for excavation not to exceed 5,000 cubic yards in a twelve-month period that is incidental to agricultural or silvicultural activities, normal landscaping, or minor topographical adjustment provided the following two criteria are met:
  - (a) Prior to excavations the owner shall submit a letter of intent to the Planning Board.
  - (b) The letter shall contain at least the names and addresses of all abutters, sketches and a description of the project to be done and distances from proposed project to property lines. All abutters in the letter shall be noticed by certified mail to be paid by the applicant.
- (3) In cases where a state permit is not required for reasons specified in Subsection C, a local excavation permit is required.
  - (a) The local excavation permit form shall be specified in the Subdivision regulations.
  - (b) All local excavation permits shall require a public hearing except for those cases where the applicant is also applying for site plan or subdivision approval in which cases the discussion and review of the excavation information will take place during the normal site plan/subdivision approval process.
  - (c) In all cases a separate drawing must show the reclamation to be done at the completion of the excavation.
  - (d) In cases where excavation is coincident with site plan or subdivision approval, no excavation can take place until the site plan and/or subdivision has been approved and all conditions of approval have been met.

**§ 220-71. Application for permit.**

Any owner or owner's agent, prior to excavation of his/her land, shall apply to the Planning Board for a permit for excavation. The applicant shall also send a copy of the application to the Plaistow Conservation Commission. Such application shall be signed and dated by the applicant and shall contain at least the names, addresses, sketches, descriptions, distances, elevations, and plans for reclamation/restoration defined in RSA 155-E:3.

**§ 220-72. Prohibited projects.**

The Planning Board shall not grant a permit under the following circumstances:

- A. Where the excavation would violate the operational standards set forth in RSA 155E:4-a and § 220-73 of this article.

- B. Where excavation takes place within 50 feet of the boundary of a disapproving abutter or within 10 feet of the boundary of an approving abutter unless the abutter requests approval.
- C. Where the excavation site is located in the Medium Density Residential District (MDR), the Low Density Residential District (LDR), and the Residential Conservation District I (RCI). [Amended 3-13-2007 ATM by Art. P-07-31]
- D. Where the issuance of a permit would be unduly hazardous or injurious to the public welfare.
- E. Where existing visual barriers would be removed, except to provide access to the excavation.
- F. Where the excavation would substantially damage a known aquifer, so designated by the United States Geological Survey.
- G. Where the excavation would take place on, beneath, or adjacent to wetland buffers or inland surface water in such a manner that a permit is required from local, state, or federal agencies with jurisdiction over the premises; provided, however, that the Planning Board may approve the application if all necessary permits are obtained.
- H. Where the project cannot comply with the reclamation standards set forth in RSA 155-E:5 and 155-E:5-a and § 220-74 of this article.

**§ 220-73. Operational standards.**

No person shall excavate, and no owner shall permit excavation of an excavation site, whether such excavation is subject to a permit or is regulated under RSA 155-E:2 and this article, without complying with the following standards:

- A. No excavation shall be permitted below road level within 50 feet of the right-of-way of any public highway unless it is for the purpose of said highway.
- B. No excavation shall be permitted within 50 feet of the boundary of a disapproving abutter or within 150 feet of any dwelling which either existed or for which a building permit has been issued at the time the excavation begins.
- C. Vegetation shall be maintained or provided within the peripheral areas required by Subsections A and B above.
- D. Drainage shall be maintained so as to prevent the accumulation of freestanding water for prolonged periods. Excavation resulting in siltation of streams or degradation of any water supplies is prohibited.
- E. No fuels, lubricants, or other toxins or polluting materials shall be stored on site unless in compliance with state and local regulations pertaining to such materials.
- F. Where temporary slopes exceed a grade of 1:1, a fence or other suitable barricade shall be erected to limit access to the site and warn of danger.
- G. Prior to removal of topsoil or other material from a new excavation area, the excavator shall file a reclamation bond or other security as prescribed by the Planning Board sufficient to secure the reclamation of the site.

**§ 220-74. Reclamation standards.**

- A. Within 12 months after the expiration date of a permit or of the completion of any excavation, whether subject to permit or not, and timed according to whichever occurs first, the owner of the excavated land shall have completed the reclamation of the areas affected by the excavation by fulfilling the following minimum requirements in accordance with RSA 155-E:5 and this article:
- (1) Except for exposed rock ledge, all areas affected by the excavation or stripped of vegetation shall be spread with soil capable of sustaining vegetation; shall be seeded with grass or other plant life suitable to prevent erosion; and shall be replanted with tree seedlings wherever trees which were visible from a public way have been removed. Such activity shall be in accordance with acceptable horticultural practices.
  - (2) Earth and vegetative debris resulting from the excavation shall be removed or otherwise be lawfully disposed of.
  - (3) All slopes, except exposed ledge, shall be graded to natural contours for the soil type of which they are composed and shall not be left steeper than 2:1. Slope changes shall not be abrupt but shall blend with surrounding terrain.
  - (4) Any standing bodies of water as may constitute a hazard to health and safety shall be eliminated.
  - (5) The topography of the land shall be left so that water draining from the site flows from the property at the original, natural drainage points and in natural proportions. Whenever a permit from the Division of Water Supply and Pollution Control is issued, pursuant to RSA 149:8-a,<sup>48</sup> the provisions of that statute shall supersede this subsection.
- B. Any excavated area of five contiguous acres or more which is either depleted of commercial earth materials, excluding bedrock, or from which no earth materials have been removed for a two-year period shall be reclaimed in accordance with RSA 155-E:5 and this article. Reclamation shall take place within 12 months following such depletion or two years of nonuse, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.
- C. Exceptions. The Planning Board, upon application and following a hearing in accordance with § 220-76 of this article, may grant an exception in writing to the standards contained in this section (§ 220-74) and § 220-73 above if good cause can be shown. A written decision shall state the specific standards, if any, which are being relaxed and shall include reasonable alternative standards. The Planning Board's decision on any request for exception may be appealed in accordance with RSA 155-E:9.

**§ 220-75. Application for amendment.**

When the scope of a project for which an excavation permit has been issued is proposed to be altered so as to affect the size or location of the excavation, or the rate of removal, or the plan for reclamation, the owner shall submit an application for amendment of the excavation permit, said application for amendment to be subject to approval in the same manner as an initial application for excavation.

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<sup>48</sup>. Editor's Note: RSA 149:8-a was repealed by 1989, 339:35, IV. See now RSA 485-A:17.



**§ 220-76. Hearing procedure.**

- A. Prior to the Planning Board approving an application for an excavation permit or an application for an amended excavation permit, a public hearing shall be held within 30 days of such application. Notice shall be sent to all abutters and shall specify the grounds for the hearing, as well as the date, time and place. At least 14 days' notice of the time and place of the hearing shall be published in a paper of general circulation, and a legal notice shall be posted in at least three public places in the town. The 14 days shall not include the day of publication or the day of the meeting, but shall include Saturdays, Sundays, and legal holidays within said period.
- B. Within 20 days of the hearing, or any continuation thereof, the Planning Board shall render a decision approving or disapproving the application, giving reasons for disapproval.

**§ 220-77. Issuance of permit.**

- A. If the Planning Board, after public hearing, approves the application for a permit and determines it is not prohibited by RSA 155-E or this article, it shall, upon receipt of an excavation fee as set forth in the Planning Board Fee Schedule<sup>49</sup> and the posting of a bond or other such surety with the Town Treasurer in an amount reasonably sufficient to guarantee compliance with the permit, grant a permit to the applicant for an excavation. [Amended 3-11-2008 ATM by Art. 42]
- B. A copy of the issued permit shall be prominently posted at the excavation site.
- C. A permit shall not be assignable or transferable without prior written consent of the Planning Board.
- D. A permit shall specify the date upon which it expires.
- E. The Planning Board may include in a permit such reasonable conditions as are consistent with the purpose of this article, including the provision of visual barriers to the excavation.

**§ 220-78. Appeals.**

If the Planning Board disapproves or approves an application for an excavation permit or an application for an amended permit, any interested person affected by such decision may appeal for a rehearing in accordance with appeal procedures defined in RSA 155-E:9.

**§ 220-79. Enforcement.**

- A. The Planning Board or its duly authorized agent may suspend or revoke the permit of any person who has violated any provision of the issued permit or made a material misstatement in the application upon which the permit was granted, subject to a motion for rehearing and appeal in accordance with § 220-78 above.
- B. Fine, penalties, and violations of this article shall be the same as those stated in Article XXI of this chapter.
- C. Remedies shall be the same as those stated in RSA 676:15.

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49. Editor's Note: The Planning Board Fee Schedule is on file in the Town offices.

## **ARTICLE XII**

### **Floodplain Development**

#### **§ 220-80. Applicability.** [Amended 3-8-2005 ATM by Art. P-10]

The following regulations in this article shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for Rockingham County, New Hampshire" dated May 17, 2005, or as amended, together with the associated Flood Insurance Rate Map Panels numbered 0370E, 0390E, 0560E, 0576E, 0577E, 0578E, 0579E, 0585E, 0590E, dated May 17, 2005, or as amended, which are declared to be a part of this article and are hereby incorporated by reference.

#### **§ 220-81. Definitions.**

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

**AREA OF SHALLOW FLOODING** — Designated as AO, AH, or VO Zone on the Flood Insurance Rate Map (FIRM) with a one-percent 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** — The land in the floodplain within the Town of Plaistow subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the Flood Hazard Boundary Map (FHBM) and is designated on the FIRM as Zones A, A1, A2, A3, A4 and A6.

**BASE FLOOD** — The flood having a one-percent possibility of being equaled or exceeded in any given year.

**BASEMENT** — Any area of a building having its floor subgrade on all sides.

**BREAKAWAY WALL** — 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.

**BUILDING** — See "structure."

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

**FEMA** — The Federal Emergency Management Agency.

**FLOOD BOUNDARY AND FLOODWAY MAP (FLOODWAY MAP)** — An official map of the Town of Plaistow, 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** — 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)** — An official map incorporated with this article, on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to the Town of Plaistow.

**FLOOD INSURANCE STUDY** — See "flood elevation study."

**FLOOD or FLOODING** — A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**FLOODPLAIN or FLOOD-PRONE AREA** — Any land area susceptible to being inundated by water from any source (see definition of "flooding").

**FLOODPROOFING** — 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."

**FUNCTIONALLY DEPENDENT USE** — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term of cargo or passengers, and ship building/repair facilities,<sup>50</sup> but does not include long-term storage or related manufacturing facilities.

**HIGHEST ADJACENT GRADE** — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** — Any structure that is:

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

**LOWEST FLOOR** — 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

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50. Editor's Note: So in original.

that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this article.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 days.

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

**ONE-HUNDRED-YEAR FLOOD** — See "base flood."

**RECREATIONAL VEHICLE** — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred 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; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

**REGULATORY FLOODWAY** — 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 increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway Map.

**SPECIAL FLOOD HAZARD AREA** — An area having flood, mudslide, and/or flood-related erosion hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M or E. (See "area of special flood hazard.")

**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 a 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 uses or structures, such as garages or sheds, not occupied as dwelling units or part of the main structure.

**STRUCTURE** — For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** — 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** — 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 the appraised value prior to the start of the initial repair or improvement or, 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**WATER SURFACE ELEVATION** — 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.

**§ 220-82. General provisions.**

- A. All proposed development in any special flood hazard areas shall require a building permit.
- B. The Building Inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in a special flood hazard area, all new construction or substantial improvements shall:
  - (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.
  - (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.
- C. 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 Building Inspector with assurance that these systems will be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding.
- D. For all new or substantially improved structures located in Zone A, A1-30, AE, AO or AH, the applicant shall furnish the following information to the Conservation Commission and the Town Engineer:
  - (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 floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
  - (3) Any certification of floodproofing. The Conservation Commission and the Town Engineer shall maintain for public inspection and shall furnish such information upon request.
- E. The Building inspector shall not grant a building permit until the applicant certifies that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1334.

**§ 220-83. Wetlands provision.**

- A. In riverine situation, 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 Planning Board, in addition to the copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Planning Board, including notice of all scheduled hearings before the Wetlands Board.
- B. The applicant shall submit to the Planning Board certification provided by a registered professional engineer assuring that the flood-carrying capacity of an altered or relocated watercourse can and will be maintained.
- C. Along watercourses with a designated regulatory floodway no encroachments, including fill, new construction, substantial improvements, and other development, are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A, the Town Engineer shall obtain, review, and reasonably utilize any floodway data available from federal, state, or other sources as criteria for requiring that development meet the floodway requirements of this section.
- D. Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and 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.

**§ 220-84. Flood hazard areas.**

- A. In special flood hazard areas the Town Engineer shall determine the one-hundred-year flood elevation in the following order of precedence according to the data available:
  - (1) In Zones A1-30, AH, AE, V1-30, and VE refer to the elevation data provided in the community's Flood Insurance Study and accompanying FIRM or FHBM.
  - (2) In unnumbered A Zones the Town Engineer shall obtain, review, and reasonably utilize any one-hundred-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 and site approvals).

- (3) In Zone AO the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, at least two feet.
- B. The Town Engineer's one-hundred-year flood elevation determination will be used as criteria for requiring in Zones A, A1-30, AE, AH, AO, and A that:
- (1) All new construction or substantial improvement of residential structures have the lowest floor (including basement) elevated to or above the one-hundred-year flood elevation;
  - (2) All new construction or substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the one-hundred-year flood level or, together with attendant utility and sanitary facilities, shall:
    - (a) Be floodproofed so that below the one-hundred-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
  - (3) 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 shall 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.
  - (4) Recreational vehicles placed on sites within Zones A1-30, AH, and AE shall either:
    - (a) Be on the site for fewer than 180 consecutive days;
    - (b) Be fully licensed and ready for highway use; or
    - (c) Meet all standards of Section 60:3(b)(1) of the National Flood Insurance Program regulations and the elevation and anchoring requirements for manufactured homes in Subsection B(3) of this section.
  - (5) 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:
    - (a) The enclosed area is unfinished or flood-resistant, usable solely for the parking of vehicles, building access or storage;
    - (b) The area is not a basement; and
    - (c) The area 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:

- (1) 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.
  - (2) The bottom of all openings shall be no higher than one foot above grade.
  - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- (6) Proposed structures to be located on slopes in special flood hazard areas, Zones AH and AO, shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.

**§ 220-85. Variances and appeals.**

- A. Any order, requirement, decision or determination of the Town Engineer made under this article may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
- B. 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, that:
- (1) The variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
  - (2) If the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
  - (3) The variance is necessary, considering the flood hazard, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that:
- (1) The issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage.
  - (2) 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.
- D. The community shall:
- (1) Maintain a record of all variance actions, including the justification for their issuance; and
  - (2) Report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.



**ARTICLE XIII**  
**Cemetery/Burial Site and Mausoleum**

**§ 220-86. General provisions.**

- A. No person, without the written authorization of the owner of a burial site or the lineal descendent of the deceased, if known, or the written authorization of the Town of Plaistow, if the lineal descendent is unknown, shall:
- (1) Purposely or knowingly destroy, mutilate, or remove any monument, tomb, gravestone, or other marker placed or designed for a memorial of the dead, including a fence, railing, or other enclosure for the burial of the dead.
  - (2) Purposely or knowingly disturb the contents of any tomb or grave in any cemetery or burial ground.
- B. The Town of Plaistow shall not grant approval for the removal of tomb, monument, gravestone or grave enclosure without first giving 30 days' notice, together with a report of the full circumstances, that such an approval has been requested. The Town of Plaistow shall keep a record of the date, circumstances, and disposition of the request for removal or disturbance.
- C. Burials on private property, unless in an existing burial ground, shall comply with all Town of Plaistow zoning ordinances and shall require a site plan approval from the Town of Plaistow Planning Board. Such burial sites shall comply with the following:
- (1) All burial sites shall be not less than 50 feet from the right-of-way of any class of state highway and not less than 35 feet from the right-of-way of any class of Town road.
  - (2) No cemetery or other burial site shall be laid out within 100 feet of any dwelling, schoolhouse, or school lot, store or other place of business without the consent of the owner of the same.
  - (3) All burial sites shall be not less than 50 feet from any existing or known source of water.
  - (4) All burial sites shall be recorded in the deed to the property and carried in such deed upon transfer of said property to another person, company, or corporation, etc. All sites shall be recorded on Town of Plaistow Tax Maps.
  - (5) The Plaistow Planning Board may require additional restrictions where deemed necessary, in order to preserve and safeguard against any violation(s) of this article and any other ordinances and/or regulations of the Town of Plaistow.

**§ 220-87. Excavation and/or development.**

- A. No excavation or development shall be conducted within 35 feet of any known or proposed burial site, whether or not such site was properly recorded in the deed to the property.
- B. Any proposed subdivision or site plan containing a burial site or cemetery shall separate said site from the remainder of the subdivision or site plan by means of a permanent fence or stone wall of at least three feet in height. This fence shall be placed not less than 25 feet from any grave, monument or tomb.

- C. All existing or planned burial sites or cemeteries shall be shown on any new subdivision or site plans as separate lot(s), which may be deeded to the Town of Plaistow, and as such shall be under the care of and responsibility of the Town of Plaistow, at its discretion. Access for maintenance shall also be shown on the subdivision or site plans.

**§ 220-88. Cemetery records.**

The Town of Plaistow or other body charged with the responsibility for operation and administration of any cemetery shall keep a record of every burial in any cemetery under its control, showing the date of burial and the name of the person buried and the lot, plot, or part of such plot or lot in which the burial was made. Such records shall also be kept of every private burial site with the Town of Plaistow. In cases where cremation is used it shall be so stated on any or all records.

**§ 220-89. Definitions.**

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

**BURIAL GROUND** — A private cemetery on private property and not available for use by the public.

**BURIAL SPACE** — A lot in any cemetery as designed and intended for the interment of a human body or bodies, but presently not used for such purpose.

**CEMETERY** — Any cemetery owned, managed, or controlled by any municipality within this state or owned and managed by any cemetery corporation chartered by the state.

**MAUSOLEUM** — A large tomb; usually a stone building with places for entombment of the dead above ground.

## ARTICLE XIV

### Impact Fees

[Amended 3-9-2004 ATM by Art. P-30<sup>51</sup>]

#### § 220-90. Statutory authority; purpose.

Impact fees assessed by the Town of Plaistow are permitted under RSA 674:21, V, as an innovative land use control. Impact fees collected from each new development help offset the cost of new capital facilities required by the Town of Plaistow to insure the health and safety of its residents.

#### § 220-91. Imposition of impact fees.

New development and expansion of existing developments are required to pay impact fees as described by § 220-100 of this article and as maintained in the Plaistow Impact Fee Schedule that shall be adopted by the Plaistow Planning Board after notice and public hearing. Payment of such fees does not preclude the Town or the Planning Board from requiring other payments for facilities specifically benefiting the development as required by the subdivision or site plan review regulations.

#### § 220-92. Computation of impact fees.

Each impact described in § 220-100 shall have its own impact fee calculation, and such calculation shall be based on a methodology such that each person seeking new or expanded development pays a proportionate, fair-share amount of the new capital facilities.

#### § 220-93. Assessment of impact fees.

All applicable impact fees are calculated and assessed at the time of Planning Board approval of a subdivision or site plan. The Planning Board may grant a full or partial waiver of any or all impact fees if the Board agrees that the full impact fee is not appropriate. Any amounts waived must qualify as credits specified in § 220-100.

#### § 220-94. Payment of impact fees.

No building permit shall be issued for new or expanded development until the Town of Plaistow has received the impact fee unless § 220-100 specifies an alternate payment time, or the fee payer has established a mutually acceptable schedule of impact fee payments.

#### § 220-95. Appeals.

If a fee payer elects to dispute the amount of a particular impact fee, the fee payer may prepare and submit to the Planning Board an independent fee calculation study for the new or expanded development activity that is proposed. The appeal of a particular impact fee shall not be interpreted to mean an appeal of all applicable impact fees. Each impact fee must have its own individual appeal.

#### § 220-96. Administration of funds collected.

A. All funds collected shall be properly identified and promptly transferred for deposit in an

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51. Editor's Note: This article consolidated the requirements of former Art. XIV, Roadway Impact Fee Assessment, Art. XV, School District Impact Fee Assessment, Art. XVI, Recreational Impact Fee Assessment, and Art. XVII, Public Safety Impact Fee Assessment, added 3-12-2002 ATM by Art. P-31, as amended. The Plaistow Impact Fee Schedule is on file in the Town offices.

individual account for each applicable impact fee. Impact fee accounts shall be special revenue accounts and under no circumstances shall such revenues accrue to the general fund.

- B. The Town Treasurer shall have custody of all fee accounts and shall pay out the same only upon written approval of the Board of Selectmen and only for the purpose for which the impact fee was paid.
- C. The Town Treasurer shall record all fees paid by date of payment, the name of the person making the payment, and shall maintain an updated record of the current ownership, tax map and lot reference number of properties for which fees have been paid under this article for a period of at least six years.
- D. At the end of each fiscal year, the Town Treasurer shall make a report to the Board of Selectmen giving a particular account of all impact fee transactions that occurred during the year.
- E. In the event that bonds or similar debt instruments have been issued for identified roadway improvements that were constructed in anticipation of new development, impact fees may be used to pay debt service on such bonds or similar debt instruments.

**§ 220-97. Refund of fees paid.**

- A. The owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee or a portion of that fee, plus accrued interest, where:
  - (1) The impact fee or some remaining portion of the impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six years from the date of the final payment of the fee or total fee.
  - (2) The Town has failed, within the period of six years from the date of final payment of such total fee, to appropriate the non-impact-fee share of related capital improvement costs.
- B. The Board of Selectmen shall, annually, provide all owners of record who are due a refund written notice of the amount due, including accrued interest.

**§ 220-98. Premature and scattered development.**

Nothing in this article shall be construed so as to limit the existing authority of the Planning Board to deny new proposed developments that are scattered or premature, require an excessive expenditure of public funds, or otherwise violate the Town of Plaistow Zoning Ordinance, Subdivision Regulations, or Site Plan Review Regulations.

**§ 220-99. Review of fee schedules.**

The impact fee assessment schedules shall be reviewed periodically by the Planning Board using the methodology for each fee as described in § 220-100 of this article. The Planning Board may, at its discretion, update the Plaistow Impact Fee Schedule at a Public Hearing. If approved at the Public Hearing, any changes in impact fee amounts take effect immediately.

**§ 220-100. Impact fees.**

A. (Reserved)<sup>52</sup>

B. Imposition of school district impact fee.

- (1) Any person who seeks new residential development in any zone is hereby required to pay a school district impact fee. For the purposes of this article only, new residential development shall mean a new dwelling unit. This shall also include expanding a single-family home to a duplex unit or expanding a multifamily dwelling unit to include more dwelling units. Credit will be given for the existing dwelling units.
- (2) Credits to offset the impact fee will be given for those dwelling units that are used to provide dwelling units for the elderly. Expanded developments shall qualify for credit only for those cases where the original dwelling unit(s) would have qualified for this credit. Credits obtained from this impact fee may not be used to offset any other impact fee.
- (3) The school district impact fee shall be assessed in a manner consistent with the methodology described in the study called "Methodology for the Calculation of School Impact Fees in the Towns of the Timberlane Regional School District" as authorized by the Timberlane Regional School District, dated September 22, 1997, and prepared by Bruce C. Mayberry. The resultant impact fees shall be collected in the Plaistow Impact Fee Schedule and maintained by the Planning Board.

C. Imposition of recreational facility impact fee.

- (1) Any person who seeks new residential development, as defined in Subsection B(1) above, is hereby required to pay a recreational facility impact fee.
- (2) No credits will be given to offset this impact fee.
- (3) The recreation facility impact fee shall be assessed in a manner consistent with the methodology described by the Recreation Director and as authorized by a subcommittee of members from the Board of Selectmen, Recreation Department, and Planning Board, prepared by the authorized subcommittee, and adopted at Town Meeting in March 1999. The resultant impact fees shall be collected in the Plaistow Impact Fee Schedule and maintained by the Planning Board.

D. Imposition of public safety complex impact fee.

- (1) Any person who seeks new or expanded commercial development, new or expanded industrial development, or residential development as defined in Subsection B(1) above in any zone is hereby required to pay a public safety complex impact fee.
- (2) No credits will be given to offset this impact fee.
- (3) The public safety complex impact fee shall be assessed in a manner consistent with the methodology described in the document, "Impact Fee Update for Public Safety Facilities," final report by Bruce Mayberry, April 30, 2008. [Amended 3-10-2009 ATM by Art. P-09-12]

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52. Editor's Note: Former Subsection A, Imposition of Route 125 improvement impact fee, was repealed 3-14-2006 ATM by Art. P-2.

- E. Imposition of Highway Department capital expenditures impact fee. [Added 3-9-2004 ATM by Art. P-28]
- (1) Applicability. The following regulations shall govern the assessment fees for the Town of Plaistow's Highway Department Capital Expenditures Impact Fee account. These fees are authorized by RSA 674:21, V as an innovative land use control.
  - (2) Imposition of Highway Department capital expenditures impact fees.
    - (a) Any person who seeks new commercial, industrial or residential development upon adoption of this article is hereby required to pay a Highway Department Capital Expenditures Impact Fee in the manner and amount set forth in Table HD-1.<sup>53</sup>
    - (b) This impact fee shall not be waived.
    - (c) The Highway Department Capital Expenditures Impact Fee shall be assessed for any new public roads associated with commercial, industrial or residential development to compensate the Town of Plaistow for highway department capital expenditures associated with the construction of new roads.
  - (3) Computation of impact fees. The amount of the Highway Department Capital Expenditures Impact Fee for the Town of Plaistow is as follows:<sup>54</sup>
  - (4) Payment of impact fee. This impact fee shall be assessed at the time the development is approved by the Plaistow Planning Board. It will be collected at the same the Performance Bond is established for the road or at some alternate payment schedule is established that is mutually agreeable between the Plaistow Planning Board and the fee payer.
- F. Imposition of waterline fire suppression system capital expenditures impact fee. [Added 3-9-2004 ATM by Art. P-29]
- (1) Applicability. The following regulations shall govern the assessment fees for the Town of Plaistow's Waterline Fire Suppression System Capital Expenditures Impact Fee account. These fees are authorized by RSA 674:21, V as an innovative land use control.
  - (2) Imposition of waterline fire suppression system capital expenditures impact fees.
    - (a) Any person who seeks new commercial, industrial or multifamily or PRD residential development in the area described in Subsection F(2)(c) of this section, upon adoption of this article is hereby required to pay a waterline fire suppression system capital expenditures impact fee in the manner and amount set forth in Table WFS-1.<sup>55</sup>
    - (b) Credits shall be given when the development includes additions to the waterline fire suppression system as part of the development.

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53. Editor's Note: Table HD-1 has been added to the Plaistow Impact Fee Schedule.

54. Editor's Note: The Plaistow Impact Fee Schedule is on file in the Town offices.

55. Editor's Note: Table WGS-1 has been added to the Plaistow Impact Fee Schedule.

- (c) The waterline fire suppression system capital expenditures impact fee shall be assessed for any commercial, industrial or multifamily or PRD residential development projects that are constructed in the commercial area of Route 121A from Walton Road south to the Massachusetts line; all of Route 125, Chandler Avenue, Haseltine Street, Garden Road, Elm Street, Kingston Road, Hale Spring Road, Old Road, and Jesse George Road to compensate the Town of Plaistow for the expansion and completion of loops of the existing fire suppression line.
- (3) Computation of impact fees. The amount of the Waterline Fire Suppression System Capital Expenditures Impact Fee for the Town of Plaistow is as follows:<sup>56</sup>
- (4) Payment of impact fee. This impact fee shall be assessed at the time the development is approved by the Plaistow Planning Board. No building permit shall be issued by the Building Inspector for new development until the impact fee has been collected by the Planning Board for commercial, industrial and multifamily and PRD residential projects or until the fee payer has established a mutually acceptable schedule for payment.

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<sup>56</sup>. Editor's Note: The Plaistow Impact Fee Schedule is on file in the Town offices.

**ARTICLE XV****Small Wind Energy Systems**<sup>57</sup>  
[Added 3-9-2010 ATM by Art. P-10-N]**§ 220-101. Purpose.**

This small wind energy systems ordinance is enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1-III-a. The purpose of this ordinance is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, this ordinance provides a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

**§ 220-102. Definitions.**

**METEOROLOGICAL TOWER (MET TOWNER)** – Includes the tower, base plate, anchors, guy wires and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location. For the purpose of this ordinance, met towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct or erect a small wind energy system.

**MODIFICATION** – Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be construed to be a modification.

**NET METERING** – The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period.

**POWER GRID** – The transmission system, managed by ISO New England, created to balance the supply and demand of electricity for consumers in New England.

**SHADOW FLICKER** – The visible flicker effect when rotating blades of the wind generator cast shadows on the ground and nearby structures causing a repeating pattern of light and shadow.

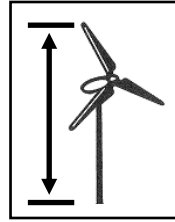
**SMALL WIND ENERGY SYSTEM** – A wind energy conversion system consisting of a wind generator, a tower, and associated control or conversion electronics, which has a rated capacity of 100 kilowatts or less and will be used primarily for onsite consumption.

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<sup>57</sup>. Editor's Note: Former Art. XV, School District Impact Fee, was removed from the Code 3-9-2004 ATM by Art. P-30, which article consolidated impact fee regulations. For current information, see Art. XIV, Impact Fees.

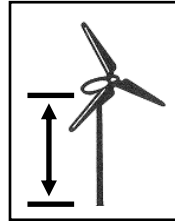


**System height.** The vertical distance from ground level to the tip of the wind generator blade when it is at its highest point.



**Tower.** The monopole, guyed monopole or lattice structure that supports a wind generator.

**Tower height.** The height above grade of the fixed portion of the tower, excluding the wind generator.



**WIND GENERATOR** – The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.

**§ 220-103. Procedure for review.**

A. **Building Permit.** Small wind energy systems and met towers are an accessory use permitted in all zoning districts where structures of any sort are allowed. No small wind energy system shall be erected, constructed, or installed without first receiving a building permit from the building inspector. A building permit shall be required for any physical modification to an existing small wind energy system. Met towers that receive a building permit shall be permitted on a temporary basis not to exceed 3 years from the date the building permit was issued.

B. **Application.** Applications submitted to the building inspector shall contain a site plan with the following information:

- (1) Property lines and physical dimensions of the applicant's property.
- (2) Location, dimensions, and types of existing major structures on the property.
- (3) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
- (4) Tower foundation blueprints or drawings.
- (5) Tower blueprints or drawings.
- (6) Setback requirements as outlined in this ordinance.
- (7) The right-of-way of any public road that is contiguous with the property.
- (8) Any overhead utility lines.

- (9) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
- (10) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- (11) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- (12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the NH State Building Code.
- (13) Evidence of compliance or non-applicability with Federal Aviation Administration requirements.
- (14) List of abutters to the applicant’s property.

C. Abutter and Regional Notification. In accordance with RSA 674:66, the building inspector shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded 30 days to submit comments to the building inspector prior to the issuance of the building permit. The building inspector shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the building inspector shall follow the procedures set forth in RSA 36:57, IV.

**§ 220-104. Standards.**

A. The building inspector shall evaluate the application for compliance with the following standards:

- (1) Setbacks: The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, or nearest point on the foundation of an occupied building.

Minimum Setback Requirements			
Occupied Buildings on Participating Landowner Property	Occupied Buildings on Abutting Property	Property Lines of Abutting Property and Utility Lines	Public Roads
0	1.5	1.1	1.5

- a) Small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located.
- b) Guy wires used to support the tower are exempt from the small wind energy system setback requirements.

- (2) Tower: The maximum tower height shall be restricted to 35 feet above the tree canopy within 300 feet of the small wind energy system. In no situation shall the tower height exceed 150 feet.
- (3) Sound Level: The small wind energy system shall not exceed 60 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages.
- (4) Shadow Flicker: Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.
- (5) Signs: All signs including flags streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.
- (6) Code Compliance: The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code.
- (7) Aviation: The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.
- (8) Visual Impacts: It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.
  - a) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind generator design or appearance, buffering, and screening of ground mounted electrical and control equipment. All electrical conduits shall be underground, except when the financial costs are prohibitive.
  - b) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include but are not limited to white, off-white or gray.
  - c) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the

applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

- (9) **Approved Wind Generators:** The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the state of New Hampshire, if available.
- (10) **Utility Connection:** If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.
- (11) **Access:** The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- (12) **Clearing:** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

**§ 220-105. Abandonment.**

A. At such time that a small wind energy system is scheduled to be abandoned or discontinued, the applicant will notify the building inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations

B. Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the building inspector. "Physically remove" shall include, but not be limited to:

- (1) Removal of the wind generator and tower and related above-grade structures.
- (2) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.

C. In the event that an applicant fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous 12-month period. After the 12 months of inoperability, the building inspector may issue a Notice of Abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the Notice of Abandonment within 30 days from Notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the building inspector shall withdraw the Notice of Abandonment and notify the owner of the withdrawal.

D. If the owner fails to respond to the Notice of Abandonment or if, after review by the building inspector, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within 3 months of receipt of the Notice of Abandonment. If the owner fails to physically remove the small wind energy system after the Notice of Abandonment procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

**§ 220-106. Violation.**

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt from this ordinance except when modifications are proposed to the small wind energy system.

**§ 220-107. Penalties.**

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by NH Revised Statutes Annotated Chapter 676:17.

**ARTICLE XVI****Storm Water - Illicit Discharge and Connection<sup>58</sup>**  
**[Added 3-9-2010 ATM by Art. P-10-O]****§ 220-108. Purpose.**

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the Town of Plaistow through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.
- B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

**§ 220-109. Definitions.**

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

Construction Activity: Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

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<sup>58</sup>. Editor's Note: Former Art. XVI, Recreational Impact Fee Assessment, was removed from the Code 3-9-2004 ATM by Art. P-30, which article consolidated impact fee regulations. For current information, see Art. XIV, Impact Fees.

**Hazardous Materials:** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Illegal Discharge:** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

**Illicit Connections:** An illicit connection is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Industrial Activity:** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

**National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:** means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Non-Storm Water Discharge:** Any discharge to the storm drain system that is not composed entirely of storm water.

**Person:** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**Plan:** A document approved at the site design phase that outlines the measures and practice used to control storm water runoff at a site.

**Pollutant:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Premises:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**Storm Drainage System:** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Storm Water:** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Storm Water Pollution Prevention Plan:** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

**Wastewater:** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

### **§ 220-110. Applicability.**

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

#### **§ 220-110.1. Responsibility for administration.**

The Town of Plaistow shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Town of Plaistow may be delegated in writing by the Town Manager to persons or entities acting in the beneficial interest of or in the employ of the agency.

#### **§ 220-110.2. Severability.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

#### **§ 220-110.3. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### **§ 220-111. Discharge prohibitions.**

A. Prohibition of Illegal Discharges.



No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- (2) Discharges specified in writing by the Town of Plaistow as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the Town of Plaistow prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### B. Prohibition of Illicit Connections.

The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

- (1) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

#### **220-112. Suspension of MS4 access.**

##### A. Suspension due to Illicit Discharges in Emergency Situations

The Town of Plaistow may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of

persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town of Plaistow may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

**B. Suspension due to the Detection of Illicit Discharge**

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Town of Plaistow will notify a violator of the proposed termination of its MS4 access. The violator may petition the Town of Plaistow for a reconsideration and hearing.

C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Town of Plaistow.

**§ 220-113. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of Plaistow prior to the allowing of discharges to the MS4.

**§ 220-114. Monitoring of discharges.**

**A. Applicability.**

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

**B. Access to Facilities.**

(1) The Town of Plaistow shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town of Plaistow.

(2) Facility operators shall allow the Town of Plaistow ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Town of Plaistow shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Town of Plaistow to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Town of Plaistow has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its

own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town of Plaistow and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Town of Plaistow access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Town of Plaistow reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (7) If the Town of Plaistow has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Town of Plaistow may seek issuance of a search warrant from any court of competent jurisdiction.

**§ 220-115. Requirement to prevent, control, and reduce storm water pollutants by the use of Best Management Practices.**

The Town of Plaistow will adopt requirements identifying Best Management Practices for any Town activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

**§ 220-115.1. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately

owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

### **§ 220-115.2. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town of Plaistow in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Plaistow within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

### **§ 220-116. Enforcement.**

#### **§ 220-116.1 Notice of Violation.**

A. Whenever the Town of Plaistow finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Town of Plaistow may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs;
- (6) The implementation of source control or treatment BMPs.

B. If an abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### **§ 220-116.2. Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination of the Town of Plaistow. The notice of appeal must be received within 30 days from the date of the Notice of Violation. A Hearing on the appeal before the appropriate authority or his/her designee shall take

place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

**§ 220-116.3. Enforcement measures after appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 90 days, or an interval specified by the Town of Plaistow Planning Board, of the decision of the municipal authority upholding the decision of the Town of Plaistow, then representatives of the Town of Plaistow shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

**§ 220-116.4. Cost of abatement of the violation.**

A. Within 30 days, or an interval specified by the Town of Plaistow Planning Board, after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

B. Any person violating any of the provisions of this article shall become liable to the Town of Plaistow by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 5 percent per annum shall be assessed on the balance beginning on the 31<sup>st</sup> day following discovery of the violation.

**§ 220-116.5. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Town of Plaistow may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**§ 220-116.6. Compensatory action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the Town of Plaistow may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**§ 220-116.7. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated

or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**§ 220-116.8. Criminal prosecution.**

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$500.00 dollars per violation per day and/or imprisonment for a period of time not to exceed 30 days.

The Town of Plaistow may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**§ 220-116.9. Remedies not exclusive.**

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town of Plaistow to seek cumulative remedies.

**ARTICLE XVIA**  
**(Storm Water – Post Construction) <sup>59</sup>**

**§ 220-117. Purpose and Goals**

The Purpose of this Ordinance is to control runoff and soil erosion and sedimentation resulting from site construction and development; and to comply with US Environmental Protection Agency (EPA) Stormwater Management regulations.

This Ordinance covers all areas within the Town of Plaistow including, but not limited to, the area designated by the EPA as an Urbanized Area in accordance with the Town's Authorization to Discharge under the General Permit for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems (MS4). Subdivisions and site plans shall include plans for managing storm water and controlling erosion and sedimentation as provided below.

Any errors or omissions in this Ordinance shall not exempt applications from complying with applicable State and Federal Statutes. In the event of conflicting requirements, pursuant to NH RSA 676:14 the stricter standard applies. This ordinance shall become effective upon the adoption by the Town of Plaistow Board of Selectmen, and the Planning Board, in accordance with the provisions of RSA 147, 41:11, RSA 674:16 & 17 and 476:36 & 44

**§ 220-117.1. Abbreviations/Definitions**

Best Management Practices (BMP): A proven or accepted structural, non-structural, or vegetative measure; the application of which reduces erosion, sediment, or peak storm discharge, or improves the quality of Stormwater runoff.

Certified Soil Scientist: A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

Critical Areas: Disturbed areas of any size within 50 feet of any wetland; 100 feet of a Public Water Protection Wetland (as defined in Plaistow Zoning Ordinance, Article IV); disturbed areas exceeding 2,000 square feet in highly erodible soils; or, disturbed areas containing slope lengths exceeding 25 feet on slopes greater than 10 percent.

Development: Any construction or land altering or grading activities other than for agricultural and silvicultural practices.

Disturbed Area: An area where the natural vegetation, including tree stumps, has been removed exposing underlying soil, or vegetation has been covered.

Environmental Protection Agency (EPA): The Federal agency responsible for implementing Clean Water Act entities including the National Pollutant Discharge Elimination System (NPDES) program.

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59. Editor's Note: Former Art. XVIA, Public Safety Impact Fee Assessment, added 3-12-2002 ATM by Art. P-31, as amended 3-9-2004 ATM by Art. P-27, was removed from the Code 3-9-2004 ATM by Art. P-30, which article consolidated impact fee regulations. For current information, see Art. XIV, Impact Fees. Post construction ordinance ATM by Art. P11-23.

Erosion: The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Highly Erodible Soils: Any soil with an erodibility class (K factor) greater than or equal to 0.43 in any layer as found in Table 3-1 of the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.”

NOI: Notice of Intent as developed by the EPA.

NOT: Notice of Termination as developed by the EPA.

NPDES: National Pollutant Discharge Elimination System as developed by the EPA.

Project Area: The area within the subdivision or site plan boundaries plus any areas with associated off site improvements.

Sediment: Solid Material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

Stabilized: When the soil erosion rate approaches that of the undisturbed soils. Soils which are disturbed will be considered stabilized when covered with a healthy, mature growth of grass, or good covering of straw mulch or equivalent (seedless) mulch (at a rate of not less and 2 tons/acre). Mulch is only a temporary measure; ultimately, the site needs vegetation.

Stormwater Management and Erosion Control Plan (SWMP): A plan which outlines project features, proposed temporary and permanent erosion control features, maintenance schedules and practices, and design basis used to establish both temporary and permanent design features.

Stormwater Pollution Prevention Plan (SWPPP): A plan required by the EPA that clearly describes appropriate control measures that include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges and describes the interim and permanent stabilization practices for the site.

Stormwater Runoff: the water from precipitation that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.

Stream: Areas of flowing water occurring for sufficient time to develop and maintain defined channels; but may not flow during dry portions of the year. Includes but is not limited to all perennial and intermittent streams located on US Geological Survey Maps.

## **§ 220-117.2. Applicability**

An applicant for any land use related permit from the Town of Plaistow shall design and submit a custom construction storm water management and erosion control plan to the Planning Board, or their agent, for any tract of land being developed, redeveloped or subdivided, and for any tract of land being subdivided or developed in a manner which would be subject to site plan review, where one or more of the following conditions are proposed:



- a. A cumulative disturbed area exceeding 20,000 square feet
- b. Construction or reconstruction of a street or road
- c. A subdivision of two or more building lots
- d. Proposed work adjacent to a wetlands buffer
- e. Disturbed critical areas (see Definitions)

The applicant shall design and submit a custom permanent storm water management and erosion control plan to the Planning Board, or their agent for any tract of land being developed, redeveloped or subdivided. This submission shall occur: for a subdivision at the Final Review Phase, during the Non-Residential Site Review process, as part of the Building Permit review, depending upon the scale of the project proposed, or as directed by the Planning Board, or their designated agent.

A waiver of this ordinance may be granted by the Planning Board. The applicant must provide evidence, in writing, to support the request for waiver due to the size or character of the project, or the natural conditions of the site.

### **§ 220-117.3. Design Standards**

1. Temporary/Construction Stormwater Management Design: The following standards shall be applied in planning for storm water management and erosion control as related to construction: (Additionally, the Planning Board, by its adoption of this ordinance, has incorporated the same be referenced as a requirement of its subdivision and site plan regulations so that the plan and application contemplated hereunder should be presented to the Planning Board in connection with any such application as well. Such submission to the Planning Board shall be in addition to any requirements to storm water drainage system design that may also be contained in applicable subdivision and/or site plan regulations.)

- a. All measures in the plan shall meet as a minimum the Best Management Practices set forth in the “New Hampshire Stormwater Manual”, NH Department of Environmental Service; and the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire” Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Services (now the Natural Resources Conservation Service), August 1992, as amended from time to time.
- b. Whenever practical, natural vegetation shall be retained, protected or supplemented. The stripping of vegetation shall be done in a manner that minimizes soil erosion.
- c. Appropriate erosion and sediment control measures shall be installed prior to soil disturbance.
- d. The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than thirty (30) days shall be stabilized.
- e. Measure shall be taken to control erosion within the project area. Sediment and runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface waters shall be protected from sediment.
- f. Off-site surface water and runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried without erosion through the project area. Integrity of downstream drainage systems shall be maintained.
- g. Measures shall be taken to control the post-development peak rate of runoff so that it does not exceed pre-development runoff for the two-years, 24-hour storm event and for

additional storm event frequencies as specified in the design criteria of the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.”

- h. Priority should be given to preserving natural drainage systems including perennial and intermittent streams, wetlands, swales, and drainage ditches for conveyance of runoff leaving the project area.
- i. All temporary erosion and sediment 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 within 30 days unless conditions dictate otherwise.
- j. Naturally occurring streams, channels, and wetlands shall be used for conveyance of runoff leaving the project area only after appropriate sedimentation control measures have been employed.

## 2. Permanent Stormwater Management Design Criteria

The following standards shall be applied in planning for stormwater management and erosion control as related to long-term management of municipal water quality:

- a. Under One Acre of Disturbance:
  - 1. Within the urbanized area (UA) will require a basic stormwater quality management system. At a minimum, all stormwater must pass through basic pretreatment (beyond catch basin sumps) prior to leaving the site.
- b. Over One (1) Acre Disturbance:
  - 1. Within the UA requires a well thought out, systematic permanent stormwater quality management system. Latest technology and most up-to-date performance data must be considered when selecting permanent control measures. As noted above, catch basin sumps alone are not considered a valid water control measure. Mechanical devices may be required to supplement any proposal. Maintenance programs and schedules will be required as part of the proposal. Off-site water quality control measures may require long-term escrow funds to cover future maintenance expenses. Sites with appropriate separation to the seasonal high groundwater table must also consider groundwater recharge. All groundwater recharge systems will require on-site test pit and percolation test data to be submitted as part of the review.
  - 2. Outside the UA requires a basic systematic permanent stormwater quality management system. Catch basin sumps alone are not considered a valid water quality control measure.
- c. Adjacent to the Wetlands Buffer (Any Size Disturbance):
  - 1. Any new project adjacent to the wetlands buffer will require permanent water quality control measures.
  - 2. Projects involving redevelopment or expansion will be considered on a case-by-case basis.
- d. Municipal Project: All municipal projects will also consider inclusion of water quality control measures.

### 3. Permanent Stormwater Management Technical Design Criteria

- a. All measures in the plan shall meet as a minimum the Best Management Practices set forth in the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire,” Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Service (now the Natural Resources Conservation Service), August 1992, as amended from time to time.
- b. The design of proposed features must consider the following:
  - 1) Existing and proposed methods of handling stormwater runoff so that there will be no increase in the amount of runoff that leaves the boundaries of the site. (The Planning Board may permit an increase in off-site stormwater runoff on submission of a detailed downstream, study and on the recommendation of the Town.)
  - 2) Engineering calculations used to determine drainage requirements based upon 25-year storm frequency, 24-hour duration shall be provided if the project will significantly alter the existing drainage patterns due to such factors as the amount of new impervious surfaces (such as pavement and building areas) being proposed. Closed drainage features must be sized for the 10-year storm frequency. Culverts, major ditches, swales, and detention facilities must be sized for the 25-year storm frequency.
  - 3) If the project will affect drainage flow to an existing roadway culvert, or if a detention or retention pond is proposed, a minimum of a 25-year storm shall be used to evaluate potential off-site effects. If a State owned or maintained culvert is affected by the development, State of New Hampshire Department of Transportation Guidelines shall be used for evaluation of the culvert.
  - 4) All temporary erosion and sediment 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 within thirty (30) days.
  - 5) Velocities of less than ten (10) feet per second are required prior to entering a sedimentation swale. The maximum design velocity within the swale shall be 1.0 feet per second during passage of the 10-year storm.
  - 6) Flows of less than ten (10) cubic feet per second are required prior to entering a sedimentation swale.
  - 7) All slopes equal to or steeper than 2:1 adjacent to a public right-of-way must have special stabilization details provided with the submission.
  - 8) Velocities of ten (10) feet per second or less are desirable within a closed drainage system. Higher velocities may be allowed provided special design criteria have been used.

The following shall be required in the final plan unless the project is deemed of sufficiently minimal impact.

### 4. Construction Drawings/Supporting Documents Shall Include the Following:

- a. Locus map showing property boundaries
- b. North arrow, scale, date
- c. Property lines
- d. Structures, roads, utilities, earth stockpiles, equipment storage, and plan for stump and debris removal

- e. Topographic contours at two-foot intervals
- f. Critical areas
- g. Within the project area and within 200 feet of project boundary surface waters, wetlands and drainage patterns and watershed boundaries
- h. Vegetation
- i. Extent of 100-year flood plain boundaries if published or determined
- j. Soils information for design purposes from a National Cooperative Soil Survey (NCSS) soil series map or a High Intensity Soil Map of the site, prepared in accordance with SSSNNE Special Publication No.1. Highly erodible soils shall be determined by soil series
- k. Easements, existing and proposed
- l. Areas of soil disturbance, including calculation of square footage disturbed
- m. Areas of cut and fill, including existing and proposed elevations
- n. Locations of earth stockpiles
- o. Locations of equipment storage and staging
- p. Stump disposal
- q. Highlighted areas of poorly and very poorly drained soils
- r. Highlighted areas poorly and/or very poorly drained soils proposed to be filled
- s. Locations, descriptions, details, and design calculations for all structural, non-structural, permanent and temporary erosion and sedimentation control measures and BMPs
- t. Identification of all permanent control measures
- u. Identification of permanent snow storage areas
- v. Identification of snow management areas during construction
- w. Construction schedule
- x. Earth movement schedule
- y. Temporary (additional) detention and/or sediment control facilities may be designed to accommodate the storm most likely to occur during the anticipated duration of construction (i.e. construction duration of two (2) years requires a two-year evaluation)
- z. A proposed schedule for the inspection and maintenance of all measures
- aa. Identification of all permanent control measures and responsibility for continued maintenance

5. Stormwater Management Report Section Including:

- a. Design calculations for all temporary and permanent structural control BMP measures
- b. A proposed schedule and procedural details for the inspection and maintenance of all BMPs during and after construction
- c. Identification of all permanent control measures and responsibility for continued maintenance
- d. Drainage report with calculations showing volume, peak discharge, and velocity of present and future runoff for the 10-year, 24-hour storm event
- e. Plans showing the entire drainage area affecting or being affected by the development of the site. Proposed lot boundaries and drainage areas shall be clearly shown on the plan
- f. The direction of flow of runoff through the use of arrows shall clearly be shown on the plan

- g. The location, elevation, and size of all existing and proposed catch basins, drywells, drainage ditches, swales, retention basin, and storm sewers shall be shown on the plan
- h. When detention structures are planned to reduce future condition peak discharge, the soil cover complex method shall be used to compute the runoff volume and peak discharge for designing the structure. The design will conform to the criteria outlined for the types of structures given in the “Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire”
- i. Copies of pertinent State and Federal Permits
- j. An example of Stormwater Management Plan table of contents follows:
  - 1) Project Overview
  - 2) Owner
  - 3) Address of Development
  - 4) Location of the site
  - 5) Description of receiving waters
  - 6) Nature and purpose of the land disturbing activity
  - 7) Limits of disturbance
  - 8) Construction schedule
  - 9) Existing conditions summary
  - 10) Define topography, drainage patterns, soils, groundcover, critical areas adjacent areas, upstream areas draining through the site, existing development, existing stormwater facilities, on- and off-site utilities, construction limitations, buffers, wetlands, streams, sensitive areas, and other pertinent features
  - 11) Include an existing conditions plan (drawing) showing the above existing conditions and labeled per the narrative above
  - 12) Off-site analysis
  - 13) Describe the tributary area (include at least 1/4-mile downstream), drainage channels, conveyance systems and downstream receiving waters
  - 14) Review existing or potential problems resulting from the development including, but not limited to, sedimentation, erosion, water quality issues, chemical spills
  - 15) Demonstrate that the development of the site will not affect the downstream systems negatively
  - 16) Demonstrate adequate capacity of the down stream system to handle flow conditions after development
  - 17) As applicable, include an off-site drainage plan (the plan may be part of the existing conditions plan)
  - 18) Special reports, studies, maintenance information
  - 19) As applicable, include test pit logs forms, soil conditions data, and wetland delineation information
  - 20) As applicable, include information regarding long-range maintenance of any closed drainage systems, detention/retention facilities, etc
  - 21) Appendix (include copies of all tables, graphs, and charts, test pit, and percolation test data used in any of the above calculations)

6. Responsibility for Installation/Construction

- a. The applicant and the applicant’s engineer (or technical representative) shall schedule and attend a mandatory preconstruction meeting with the Town at least two (2) week prior to

commencement of construction. Two (2) copies of the SWPPP (if required), SWMP and associated construction documents, and Notice of Intent (NOI) (if required) must be provided at that time. All documents must bear the seal and signature of the registered Professional Engineer preparing the documents. Prior to commencement of construction the Code Enforcement Officer will confirm that the documents submitted meet the conditions of plan approval.

- b. The applicant shall bear financial responsibility for the installation, construction, inspection and disposition of all stormwater management and erosion control measures required by the provisions of this Ordinance.
- c. The Planning Board shall require a bond or other security in an amount and with the surety conditions satisfactory to the Board, providing for the actual construction and installation of such measures within a period specified by the Planning Board and expressed in the bond or surety.
- d. The Town shall require the owner or his authorized agent to deposit in escrow with the Town an amount of money sufficient to cover the costs for inspection and any professional assistance required for compliance site monitoring.
- e. Site development shall not begin before the stormwater management and erosion control plan receives approval from the Planning Board or their designated agent. Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the plan.
- f. Commercial and Industrial Development and/or Redevelopment:  
The applicant, owner, and owner's legally designated representative (if any) shall all hold responsibility for implementing the stormwater management and erosion control plan.
- g. Residential Development and Redevelopment:  
The applicant is responsible for implementing the stormwater management and erosion control plan. There are two (2) ways for the applicant to be removed from the responsible party (in the Town's jurisdiction):
  - a. The applicant completes the project in a satisfactory manner and files a Notice of Termination (NOT) with the EPA in accordance with the terms of the Federal requirements
  - b. The applicant passes legal responsibility of the plan to another competent party. In the case of a new subdivision where lots may be transferred to a different entity for construction of the buildings, it is the applicant's responsibility to ensure that the applicant has a legal basis to require compliance by the new entity
- h. Individual Homeowner Development:  
Once the homeowner had taken control of a subdivided property, the homeowner bears the responsibility for compliance with the approved stormwater management and erosion control plan. If the homeowner is contracting building services to another person or entity, the homeowner may choose to pass legal responsibility of compliance to the contracted entity. If the responsibility is not passed, the homeowner remains the responsible party and must comply with the terms of the original plan.

## 7. Plan Approval and Review

- a. The Planning Board or their designated agent shall indicate approval of the stormwater management and erosion control plan, as filed, if it complies with the requirements and objectives of this Ordinance. If applicable, such approval shall be a component of subdivision or site plan approval, but shall not relieve the applicant of the need to comply with requirements relating to stormwater drainage systems design that may also be contained in other applicable subdivision and/or site plan regulations.
- b. Final approval shall be contingent upon collection of any required fees or escrow amounts related to technical review of any stormwater management and erosion control plan prepared under this Ordinance.

## 8. Maintenance, Inspection and Maintenance Security

- a. A narrative description of ongoing construction and operational maintenance requirements for water quality measures required by stormwater management and erosion and sediment control plans after final Planning Board approval shall be recorded on the deed, and any accompanying development agreements or covenants, to the property on which such measures are located. The narrative shall be in the form of a typical site plan management, development agreement, or as otherwise set forth by the Planning Board. The description so prepared shall comply with the requirements of RSA 478:4-a as detailed below:
  - 1) The Registry of Deeds shall not accept a deed or instrument for filing and recording unless it recites the following information:
    1. The latest mailing address of the grantees named in the deed or instrument.
    2. In the first sentence of the first description paragraph, the names of all municipalities in which the property is located. The name of each person signing the deed or instrument as a party to the transaction is printed or typewritten under the signature.
  - 2) All documents shall be suitable for reproduction as determined by the Rockingham County Registry of Deeds, which shall provide document standards as amended and adopted by the New Hampshire registers of deeds. The standards and any amendments thereto shall include a statement of their effective date, and shall be posted in and distributed by all registries of deeds for at least sixty (60) days prior to such effective date.
  - 3) In the event of any changes in Registry procedure or requirements, RSA 478:4-a shall supersede the above requirements, and the applicant shall fulfill those requirements.
- b. There shall further be a copy of the maintenance requirements on site during construction activity. During the time of construction, a log and report must be submitted to the Town twice each month, and within 48 hours of any storm event with greater than 1" of rainfall. This report shall detail all inspections; any actions taken per the construction stormwater

management and erosion control plan, including the reasons for doing so, dates of action, and follow up action required. After construction, this copy of the maintenance requirements shall be given to a responsible party, either at the maintenance/management company, or in the Homeowners' Association. This party will be responsible for preparing a yearly log and report, to be submitted to the Town no later than the close of business on the last business day in January. This report shall contain all of the information required in the bi-weekly reports.

- c. If the applicant, manager or owner is unable to adequately provide the required maintenance activities, the Town may require additional escrow funding to be used by either the applicant or the Town solely to repair, replace and/or maintain the required measures.
- d. All developments shall be required to submit annual inspection checklists as provided by the Planning Department to certify that proper maintenance of on-site drainage infrastructure and stormwater systems have been performed and are functioning properly. These checklists must be submitted by October 1<sup>st</sup> each year to the Town of Plaistow Department of Building Safety. [Amended 3-13-2012 ATM by Art. P-12-30]
- e. If permission to inspect is denied by the landowner, the Code Enforcement Officer or their designee shall secure an administrative inspection warrant from the district or superior court under RSA 595-B.

#### **§ 220-117.4. Enforcement and Penalties**

1. The purpose of this article is to enact locally the administrative and enforcement procedures set for in RSA Title LXIV, specifically RSA 676:15, 16, 17 and 17-b, of the existing planning and land use statutes.
2. RSA Title LXIV, (64), specifically RSA 676:15, 16, 17, 17-a and 17-b, authorizes the following penalties and remedies for enforcement of the provisions of this Ordinance:
  - a. Injunctive relief in accordance with RSA 676:15
  - b. Fines and penalties in accordance with RSA 676:17
  - c. Issuance of a cease and desist order in accordance with 676:17-a
  - d. Pleas by mail for local land use citations in accordance with RSA 676:17-b
3. Any violation of the requirements of this Ordinance shall be subject to enforcement by the Code Enforcement Officer, or their designated agent for the Town of Plaistow, who shall be empowered to take any action authorized by the provisions of RSA Title LXIV, or any other applicable law, ordinance or regulation.

Prior to taking any other action, the Town shall issue a Notice of Violation.

#### **§ 220-117.5. Other Required Permits**

In addition to local approval, copies of the following permits shall be required if applicable:



1. RSA 485-A:17 requires a permit from the New Hampshire Water Supply and Pollution Control Division for "...any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff...". Regulations require this permit for any project involving more the 100,000 contiguous square feet of disturbance or if such activity occurs in or on the border of the surface waters of the state.
2. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit. A permit issued by the EPA or by the State under authority delegated pursuant to 33 USC, section 1342(b) that authorized the discharge of pollutants to water of the United States.
3. For a cumulative disturbance of one (1) acre of land that EPA considers "construction activity," which includes, but is not limited to clearing, grading, excavation and other activities that expose soil typically related to landscaping, demolition and construction of structures and roads, a federal permit will be required. Consult EPA for specific rules. This EPA permit is in addition to any state or local permit required. To apply, the entity or individual responsible for construction site operations shall file and Notice of Intent (NOI) with the EPA postmarked at least 24 hours prior to work beginning. EPA will respond within two (2) weeks with a written permit, provided the NOI meets their criteria.

#### **§ 220-117.6. Stormwater Discharges Associated with Commercial/Industrial Activities**

Each commercial and industrial facility approved under this Ordinance is required to perform annual site inspections (at a minimum). The site inspection must be documented and at a minimum should include: review of stormwater flow paths, conditions of any sediment or contaminant control devices, water quality notation, corrective actions and time frames is unacceptable water quality runoff is noted, and the name and position of the inspector. All records of the inspections must be made available to the Town or their designee upon request.

#### **§ 220-117.7. Notification for Spills or Other Non-Stormwater Discharges**

As soon as any person responsible for a facility, site, activity or operation as information of any known or suspected release of pollutants or non-stormwater discharges which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the Town of Plaistow's municipal storm system, state waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release as to minimize the effects of the discharge. If said individual is not competent to assess, contain, or clean-up, that persona shall immediately notify another competent individual or firm. If the substance poses an immediate health or safety concern, the Town of Plaistow's Emergency Services must immediately be notified. This notification should be made as soon as possible, however, no later than 24 hours post event. This notification does not preclude and must be made in addition to any Federal or State required notifications. The site operator/owner must be ware that discharges such as treated swimming pool water are not allowed discharges unless appropriate measures have been taken to reduce the treatment chemical concentrations in the water.

**§ 220-117.8. Regulated Discharges to MS4 in Urbanized Area**

Portions of the Town of Plaistow's Municipal Separate Storm Sewer System (MS4) are within an "urbanized areas" (UA), as defined by the Bureau of Census, and fall under mandatory regulation under EPA Phase II Stormwater Management Regulations. This area is identified on the Town of Plaistow's Stormwater Map. Within the UA all discharges to Town streets and associated drainage systems, both open and closed, are regulated by the Town's MS4 Stormwater Permit. All land in Plaistow, both within and outside of the UA, will comply with this Ordinance.

**Sample Stormwater Permit Application**

Failure to provide all required materials and information could result in the review of this application being delayed for consideration. The applicant certifies to the truth of the following facts as part of his/her application.

1. Name of Applicant: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone/Fax Numbers: \_\_\_\_\_

2. Name of Engineer/Surveyor/Agent: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone/Fax Numbers: \_\_\_\_\_

3. Address (including Map & Lot) of Property for which permit is requested:  
\_\_\_\_\_

4. Type of Request:  Commercial/Industrial  Subdivision  
 Single Lot Development  Municipality/Utility

5. Name(s) and complete mailing address(es) of Owner(s) if different from Applicant:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Description of the project for which a Stormwater and Erosion Control Permit is requested. Include development name, type, start date, and total square footage of land to be altered/cleared. Attach additional pages as necessary.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Required forms (submit ten (10) copied of all supporting materials):  
 Legal Description  Drainage and Erosion Control Plan  
 Stormwater Management Plan Calculations & Drawings

I have reviewed Section ##### if the Town of Plaistow Zoning Ordinance regarding Stormwater and Erosion Control. For residential construction, the Town of Plaistow Department of Building Safety must be contacted for inspection within one business day or rough grading completion.

I further grant the right-of-entry onto this property, as described above, to the designated personnel of the Town for the purpose of inspecting and monitoring for compliance with the aforesaid Ordinance.

Signature of Applicant: \_\_\_\_\_  
Date of Submission: \_\_\_\_\_

**Sample Town of Plaistow Notice of Violation**

Dear Property Owner: \_\_\_\_\_

You are hereby informed that based upon an inspection performed by the local administrator on \_\_\_\_\_ (date), your property does not comply with the requirements of Article XVIA, Construction/Post-Construction Stormwater Ordinance, Stormwater and Erosion Control Regulations, or approved plans. You are hereby served written notice and instructed to correct the violations listed below:

A copy of the inspection report, which details the nature of the violation at hand is enclosed.

- a. Actions or conditions which violate the requirements of this Ordinance or plans approved under this Ordinance:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- b. The minimum that needs to be done to correct the violation(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- c. The violation must be corrected by: \_\_\_\_\_ (date)

- d. The property owner was forwarded a copy of this report on: \_\_\_\_\_ (date)

- e. The original has been filed in the Department of Building Safety on: \_\_\_\_\_ (date)

- f. A copy of the inspection report is attached: Yes: \_\_\_\_\_ No: \_\_\_\_\_

Sincerely, \_\_\_\_\_ Date: \_\_\_\_\_  
 Plaistow Code Enforcement Officer

**ARTICLE XVII**  
**Telecommunications Facilities**

**§ 220-118. Authority.**

This article is adopted by the Town of Plaistow on April 8, 1997, in accordance with the authority as granted in New Hampshire Revised Statutes Annotated 674:16 and 674:21 and procedurally under the guidance of 675:1, II.

**§ 220-119. Purpose and goals.**

This article is enacted in order to establish general guidelines for the siting of telecommunications towers and antennas and to enhance and fulfill the following goals:

- A. Preserve the authority of Plaistow to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- B. Reduce adverse impacts such facilities may create, including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values.
- C. Provide for co-location and minimal impact siting options through an assessment of technology, current locational options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the town.
- D. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
- E. Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon Plaistow.
- F. Provide constant maintenance and safety inspections for any and all facilities.
- G. Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance and provide a mechanism for Plaistow to remove these abandoned towers to protect the citizens from imminent harm and danger.
- H. Provide for the removal or upgrade of facilities that are technologically outdated.

**§ 220-120. Definitions.**

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

**ALTERNATIVE TOWER STRUCTURE** — Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**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.

FAA — An acronym that shall mean the Federal Aviation Administration.

FCC — An acronym that shall mean the Federal Communications Commission.

HEIGHT — When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna. Height shall not exceed 200 feet.

PLANNING BOARD OR BOARD — The Town of Plaistow Planning Board and the regulator of this article.

#### PREEXISTING TOWERS AND ANTENNAS

- A. Any tower or antenna lawfully constructed or permitted prior to the adoption of this article.
- B. Any tower or antenna lawfully constructed in accordance with this article that predates an application currently before the Board.

TELECOMMUNICATIONS FACILITIES — Any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.

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

#### § 220-121. Siting Standards.

- A. General. The uses listed in this section are deemed to be permitted uses that may require further review under this article in accordance with § 220-124, Conditional use permits. However, all such uses must comply with other applicable ordinances and regulations of Plaistow (including site plan review). The following tables represent the siting standards for the listed uses as delineated by the district in which they are located in Plaistow.
  - (1) Principal or secondary use. Subject to this article, an applicant who successfully obtains permission to site under this article of the Zoning Ordinance as a second and permitted use may construct telecommunications facilities in addition to the existing permitted use. Antennas and towers may be considered either principal or secondary uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Use districts.

	<b>New Tower Construction<sup>1</sup></b>	<b>Co-Location on Preexisting Tower<sup>2</sup></b>	<b>Co-Location on Existing Structure<sup>3</sup></b>
Commercial I District	PCU	P	PCU
Industrial II District which abuts 125	PCU	P	PCU
Residential District	X	X	X

P = Permitted use without conditional use permit

PCU = Permitted use with conditional use permit

X = Prohibited

<sup>1</sup> An antenna may be located on a tower, newly constructed, under this article.

<sup>2</sup> An antenna may be located on a preexisting tower constructed prior to the adoption of this article.

<sup>3</sup> An antenna may be located on other existing structures with certain limitations.

**§ 220-122. Applicability.**

- A. Public property. Town-owned, -leased or -controlled antennas and/or towers located on property owned, leased, or otherwise controlled by the Town may be exempt from the requirements of this article. This exemption shall be available if a license or lease authorizing such antenna or tower has been approved by the governing body and the governing body elects, subject to state law and local ordinance, to seek the exemption from this article.
- B. Amateur radio; receive-only antennas. This article shall not govern any tower or the installation of any antenna that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas. This application adopts the provisions and limitations as referenced in RSA 674:16, IV.
- C. Essential services and public utilities. 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 telecommunication facilities is a use of land and is addressed by this article.

**§ 220-123. Construction performance requirements.**

- A. Aesthetics and lighting. The guidelines in this Subsection A shall govern the location of all towers and the installation of all antennas. However, the Planning Board may waive these requirements, in accordance with § 220-125, Waivers, only if it determines that the goals of this article are served thereby.
  - (1) Towers shall either maintain a galvanized steel finish, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness.
  - (2) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping

- that will blend the tower facilities with the natural setting and built environment. These buildings and facilities shall also be subject to all other site plan review regulation requirements.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
  - (5) Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.
- B. Federal requirements. All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal, in accordance with § 220-127, of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.
- C. Building codes; safety standards. To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes<sup>60</sup> and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within 30 days, such action shall constitute an abandonment and grounds for the removal, in accordance with § 220-127, of the tower or antenna, as abandoned, at the owner's expense through execution of the posted security.
- D. Additional requirements for telecommunications facilities. These requirements shall supersede any and all other applicable standards found elsewhere in Town ordinances or regulations that are less strict.
- (1) Setbacks and separation.
    - (a) Towers must be set back a distance equal to 125% of the height of the tower from any off-site residential structure.

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60. Editor's Note: See Ch. 31, Building Construction.



- (b) Tower, guys, and accessory facilities must satisfy the minimum zoning district setback requirements.
  - (c) Towers over 90 feet in height shall not be located within 1/4 mile of any existing tower that is over 90 feet in height.
- (2) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anticleimbing device.
- (3) Landscaping.
- (a) Towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound. Natural vegetation is preferred.
  - (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely.
  - (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

**§ 220-124. Conditional use permits.**

- A. General. All applicants under this article shall apply to the Planning Board for site plan review, in accordance with the requirements as provided for in the town's site plan review regulations.<sup>61</sup> In addition, applicants under this article shall also be required to submit the information provided for in this section.
- B. Issuance of conditional use permits. In granting the conditional use permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties and preserve the intent of this article.
- (1) Procedure on application. The Planning Board shall act upon the application in accordance with the procedural requirements of the site plan review regulations and RSA 676:4.
  - (2) Decisions. Possible decisions rendered by the Planning Board include approval, approval with conditions, or denial. All decisions shall be rendered in writing, and a denial shall be in writing and based upon substantial evidence contained in the written record.
  - (3) Factors considered in granting decisions:
    - (a) Height of proposed tower or other structure.
    - (b) Proximity of tower to residential development or zones.
    - (c) Nature of uses on adjacent and nearby properties.

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<sup>61</sup>. Editor's Note: See Ch. 230, Site Plan Review.

- (d) Surrounding topography.
  - (e) Surrounding tree coverage and foliage.
  - (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
  - (g) Proposed ingress and egress to the site.
  - (h) Availability of suitable existing towers and other structures as discussed in § 220-121.
  - (i) Visual impacts on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
  - (j) Availability of alternative tower structures and alternative siting locations.
- C. Information required. Each applicant requesting a conditional use permit under this article shall submit a scaled plan in accordance with the site plan review regulations and further information, including a scaled elevation view, topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses (up to 200 feet away), and any other information deemed necessary by the Planning Board to assess compliance with this article. Furthermore, the applicant shall submit the following prior to any approval by the Board:
- (1) The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines.
  - (2) The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an environmental assessment (EA) or an environmental impact statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Board prior to the beginning of the federal thirty-day comment period, and the Town process, shall become part of the application requirements.
  - (3) Each applicant for an antenna and/or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the Town and those within two miles of the border thereof, including specific information about the location, height, and design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence can consist of:
    - (a) Substantial evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.

- (b) Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
  - (c) Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (d) Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (e) Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (f) Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.
- (4) The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town of Plaistow, and grounds for a denial.
- (5) The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with RSA 676:4, I(g).

**§ 220-125. Waivers.**

- A. General. Where the Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the foregoing regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these regulations. The purpose of granting waivers under provisions of these regulations shall be to ensure that an applicant is not unduly burdened as opposed to merely inconvenienced by said regulations. The Board shall not approve any waiver(s) unless a majority of those present and voting shall find that all of the following apply:
- (1) The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
  - (2) The waiver will not, in any manner, vary the provisions of the Plaistow Zoning Ordinance, Plaistow Master Plan, or Official Maps.
  - (3) Such waiver(s) will substantially secure the objectives, standards and requirements of these regulations.

- (4) A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:
  - (a) Topography and other site features.
  - (b) Availability of alternative site locations.
  - (c) Geographic location of property.
  - (d) Size/magnitude of project being evaluated and availability of co-location.
- B. Conditions. In approving waivers, the Board may impose such conditions as it deems appropriate to substantially secure 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 with the application for Board review. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant. Failure to submit petition in writing shall require an automatic denial.

**§ 220-126. Bonding and security and insurance.**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner is incapable and unwilling to remove the tower in accordance with § 220-127. Bonding and surety shall be consistent with the provision in the subdivision regulations.<sup>62</sup> Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

**§ 220-127. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within 90 days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

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<sup>62</sup>. Editor's Note: See Ch. 235, Subdivision of Land.

**ARTICLE XVIII**  
**Adult-Oriented Businesses**

**§ 220-128. Purpose.**

The purpose of this article is to limit the location of adult-oriented businesses.

**§ 220-129. Definitions.**

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

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

**ADULT BOOKSTORE or ADULT VIDEO STORE** — A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, cd-roms, or other visual representations which depict or describe sexual activities or anatomical areas.
- B. Instruments, devices or paraphernalia which are designed for use in connection with sexual activities.

**ADULT CABARET** — A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity or semi-nudity.
- B. Live performances which are characterized by the exposure of anatomical areas or by sexual activities.
- C. Films, motion pictures, video cassettes, slides, cd-roms, or other photographic reproductions which are characterized by the depiction or description of sexual activities or anatomical areas.

**ADULT-ORIENTED BUSINESS** — An adult arcade, adult bookstore or adult video store, adult cabaret, adult theater, or sexual encounter center.

**ADULT THEATER** — A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by the exposure of anatomical areas or by sexual activities.

**SEXUAL ENCOUNTER CENTER** — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the same or opposite sex.
- B. Activities between two or more people when one or more of the persons is in a state of

nudity or semi-nudity.

**§ 220-130. Requirements.**

An adult-oriented business use, in addition to all other requirements of this chapter, shall, prior to a request for a special exception, demonstrate compliance with the following requirements:

- A. No sexually oriented businesses use shall be located within 500 feet from any property line of the following uses:
  - (1) A public, religious or private school or similar education facility.
  - (2) A licensed group day-care facility (no age restriction).
  - (3) A public park, public recreation field or similar publicly owned facility.
  - (4) A religious institution or place of worship.
  - (5) Any residential zone or use.
  - (6) A mixed residential/business zone.
- B. There shall be a minimum of 1,000 feet between any two adult-oriented businesses.
- C. In addition to the conditions for special exceptions, the following conditions shall also apply:
  - (1) The site shall be maintained daily in a condition that is free and clear of any sexual paraphernalia or packaging.
  - (2) Signs shall not visually depict any person in a state of nudity or semi-nudity. Signs shall not depict any written sexually oriented material.
- D. Existing video stores renting X-rated videos can do so up to 10% of the floor area, provided that they are enclosed and not in public view. [Added 3-12-2002 ATM by Art. P-48]

**ARTICLE XIX**  
**Aquifer Protection District**

**§ 220-131. Authority and purpose.**

Pursuant to RSA 674:16 to 21, the Town of Plaistow hereby adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve and maintain potential and existing groundwater supplies and related groundwater recharge areas within a known aquifer identified by the United States Geological Survey. The objectives of the Aquifer Protection District are to (Amended ATM 2015):

- A. Protect the public health and general welfare of the citizens of Plaistow.
- B. Prevent development and land use practices that would contaminate or reduce the recharge of the identified aquifer.
- C. Promote future growth and development of the town, in accordance with the Master Plan, by ensuring the future availability of public and private water supplies.
- D. Encourage uses that can appropriately and safely be located in the aquifer recharge areas.
- E. Acknowledge that groundwater is a natural resource which must not be wasted or contaminated and that groundwater resources are necessary to promote health and general welfare and economic development of land.
- F. Protect animal and plant habitats and wetland ecosystems, and surface waters that are supplied by groundwater. (Amended ATM 2015)

**§ 220-132. District boundaries.**

A. Location.

- (1) The Aquifer Protection District is defined as the areas shown on the map titled "Saturated Thickness and Transmissivity of Stratified Drift in the Lower Merrimack and Coastal River Basins, Southeastern New Hampshire" that was produced by the United States Geological Survey and is included in the report "Geohydrology and Water Quality of Stratified Aquifers in the Lower Merrimack and Coastal River Basins, Southeastern New Hampshire, 1990." Said map is hereby adopted as part of the Official Zoning Map of the Town of Plaistow.
- (2) The Aquifer Protection District as shown on the Town of Plaistow's Aquifer Protection District Map (2005) includes the areas containing the following aquifer materials: Coarse Grained Stratified and Coarse Grained overlaying Fine Grained Materials. (Amended ATM 2015)
- (3) The Aquifer Protection District includes the well head protection areas (WHPA's) for active community water systems, delineated and maintained by the NH DES and shown on the Town of Plaistow's Aquifer Protection District Map 2015. (Amended ATM 2015)

- (4) The Aquifer Protection District is a zoning overlay district that imposes additional requirements and restrictions to those of the underlying, base district. In all cases, the more restrictive requirement(s) shall apply. (Amended ATM 2015)
- B. Recharge areas. For the purpose of this article, the primary recharge area for the identified aquifer is considered to be co-terminus with that aquifer.
  - C. Appeals. Where the bounds of the identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of such appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question. The aquifer delineation shall be modified by such determination subject to review at the expense of the applicant and approval by the Planning Board after review and recommendation by the Conservation Commission.

**§ 220-133. Use regulations.**

- A. Minimum lot size. The minimum lot size within that portion of the Aquifer Protection District that has a saturated thickness of 20 feet or greater and a transmissivity greater than 1,000 feet squared per day shall be three acres, or 130,680 square feet, unless some other provision of this article requires it to be greater.
- B. Hydrogeologic study.
  - (1) For development proposals within the Aquifer Protection District, a hydrogeologic study shall be required for the following:
    - (a) Subdivisions of 10 lots or greater.
    - (b) Any septic system or series of septic systems designed for 2,400 gallons per day or greater contained within one lot.
    - (c) Water development projects that withdraw more than 20,000 gallons per day from a particular site or property.
  - (2) For residential subdivisions of 10 lots or fewer and for nonresidential projects with proposed water usage of less than 20,000 gallons per day from a particular site or property, the Planning Board shall determine, on a case-by-case basis, the need for a hydrogeologic study. Particularly sensitive sites may include areas that have septic systems in close proximity to wells or may contain excessively drained soils or steep slopes.
  - (3) Hydrogeologic studies shall be performed by a qualified hydrogeologist registered in the State of New Hampshire. This study shall be sufficiently detailed to demonstrate to the satisfaction of the Planning Board that the development will not engender adverse short- or long-term impacts to water quality and availability for approvable land uses on land drawing upon the same groundwater source; upon adjacent or nearby water wells; upon animal and plant habitat; and upon wetland ecosystems. All hydrogeologic studies shall include at least the following:



- (a) Soil borings (to evaluate soil stratigraphy) and multilevel monitoring wells (to evaluate groundwater flow directions).
  - (b) Cumulative impact nitrogen loading analysis employing a saturation buildout model. The analysis shall include verification that the development will not cause the nitrate-nitrogen (NO<sub>3</sub>-N) concentration in groundwater beyond the site to exceed five milligrams per liter.
  - (c) Permeability testing.
  - (d) Water quality sampling analysis.
  - (e) Water table contours and groundwater flow direction.
  - (f) Water budget analysis for watershed in which development is located that accounts for natural and anthropogenic recharge and discharge and storage capacity.
  - (g) Additional analysis/testing required by the Planning Board on a case-by-case basis.<sup>63</sup>
- (4) In cases of new development or redevelopment where the hydrology of a site is already known via previous studies or contamination identification, the Hydrogeologic study may consist of collecting previous studies and reports and submitting them to the Planning Board for consideration. The Planning Board can find these studies and reports to be acceptable or may require a more complete Hydrogeologic study be undertaken and evaluated by a qualified third party. (Added ATM 2015)

C. Septic system design installation.

- (1) In addition to meeting all local and state septic system siting requirements, all new wastewater disposal systems installed in the Aquifer Protection District shall be designed by a professional engineer licensed in New Hampshire with experience in sanitary engineering who is also a New Hampshire licensed designer of subsurface wastewater disposal systems.
- (2) The professional engineer shall meet on site with the installer before construction is begun to review the proposed construction schedule and sequencing and to ensure the installer understands all aspects of the plan.
- (3) The septic system inspector and test pit witness shall inspect the installation of each new system prior to covering and shall certify that the system has been installed as designed.
- (4) Septic systems are to be constructed in accordance with the most recent edition of the "Guide for the Design, Operation and Maintenance of Small Sewage Disposal Systems" as published by the New Hampshire Water Supply and Pollution Control Division.

D. Prohibited uses. The following uses are prohibited in the Aquifer Protection District except where permitted to continue as an existing nonconforming use: [Amended 3-8-2005 ATM by

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63. Editor's Note: Former Subsection c, Maximum lot coverage, which immediately followed this subsection, was deleted 9-12-2000.

Art. P-12, P-13, P-14]

- (1) Disposal of solid waste (as defined by New Hampshire RSA 149-M) other than brush or stumps generated on the property on which they are to be disposed.
- (2) Storage and disposal of hazardous waste (as defined by New Hampshire RSA 147-B:2, II).
- (3) Disposal of liquid or leachable wastes except that from one- or two-family residential subsurface disposal systems, or as otherwise permitted as a conditional use.
- (4) Subsurface storage of petroleum and other refined petroleum products.
- (5) Industrial uses which discharge contact-type process waters on site. Non-contact cooling water is permitted.
- (6) Outdoor storage of road salt or other de-icing chemicals.
- (7) The siting or operation of a snow dump, except that on-site snow storage areas shall be allowed.
- (8) Commercial animal feedlots.
- (9) Dry-cleaning establishments involving the use of dry-cleaning chemicals.
- (10) The storage, discharge or disposal of waste from automotive service and repair shops and junk and salvage yards.
- (11) Laundry and car wash establishments not served by a central municipal sewer.
- (12) All on-site handling, disposal, storage, processing or recycling of hazardous or toxic materials.
- (13) The siting or operation of a hazardous waste disposal facility as defined under RSA 147-A.
- (14) The siting or operation of a wastewater or septage lagoon.
- (15) Storage of liquid petroleum products, except the following:
  - (a) Normal household use, outdoor maintenance, and heating of a structure; b. Waste oil retention facilities required by statute, rule, or regulation; c. Emergency generators required by statute, rule, or regulation; d. Treatment works approved by NH DES for treatment of ground- or surface waters; provided that such storage, listed in Items (a) through (d) above, is in freestanding containers within building or above ground with secondary containment adequate to contain a spill 110% the size of the containers' total storage capacity.
- (16) Sludge monofills and septage lagoons.
- (17) Storage of animal manure unless covered or contained in accordance with the specifications of the United States Natural Resources Conservation Service.
- (18) Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Wm 500-900, except for:

- (a) Household hazardous waste centers and events regulated under Env-Wm 401.03(b)(1) and Env-Wm 501.01(b); and
    - (b) Water remediation treatment works approved by NH DES for the treatment of contaminated ground- or surface waters.
  - (19) Nonsanitary treatment works which discharge to the ground and that are subject to Env-Ws 1500, except the following:
    - (a) The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
    - (b) Treatment works approved by NH DES designed for the treatment of contaminated groundwater.
  - (20) Storage of regulated substances, unless in a freestanding container within a building or above ground with secondary containment adequate to contain 110% of the container's total storage capacity.
  - (21) Storage of commercial fertilizers, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate.
  - (22) The composting, use or land application of biosolids and/or septage.
  - (23) Sand and gravel excavation and other mining within eight vertical feet of the seasonal high water table.
- E. Permitted uses. The following activities may be permitted provided they are conducted in accordance with the purposes and intent of this article:
- (1) Any use permitted in the underlying zoning district by Articles IV and V of the Town of Plaistow Zoning Ordinance, except as prohibited in Subsection D of this section. [Amended 3-8-2005 ATM by Art. P-15]
  - (2) Activities designed for conservation of soil, water, plants and wildlife.
  - (3) Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted.
  - (4) Normal operation and maintenance of existing water bodies and dams, splash boards and other water control, supply and conservation devices.
  - (5) Foot, bicycle and/or horse paths and bridges.
  - (6) Maintenance and repair of any existing structure, provided there is no increase in impermeable surface above the limit established in § 220-133B of this article.
  - (7) Farming, gardening, nursery, forestry, harvesting and grazing, provided that fertilizers, herbicides, pesticides, manure and other leachables are used appropriately at levels that will not cause groundwater contamination and are stored under shelter.
- F. Conditional uses.
- (1) The following uses, if allowed in the underlying zoning district, are permitted only after a conditional use permit is granted by the Plaistow Planning Board:

- (a) Industrial and commercial uses not otherwise prohibited in Subsection D of this section.
  - (b) Sand and gravel excavation and other mining which is proposed to be carried out to within eight vertical feet of the seasonal high water table and provided that periodic inspections are made by the Planning Board or its agent to determine compliance. [Amended 3-8-2005 ATM by Art. P-16]
- (2) The Planning Board may grant a conditional use permit for those uses listed above only after written findings of fact are made that all of the following conditions are met:
- (a) The proposed use will not detrimentally affect 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;
  - (b) The proposed use will not cause a significant reduction in either the short- or long-term volume of water contained in the aquifer or in the storage capacity of the aquifer;
  - (c) The proposed use will discharge no wastewater on site other than that typically discharged by domestic wastewater disposal systems and will not involve on-site storage or disposal of toxic or hazardous wastes as herein defined; [Amended 9-12-2000]
  - (d) The proposed use complies with all other applicable sections of this article.
  - (e) A hydrogeologic study shall be submitted as required in § 220-133B of this article.
  - (f) Submission of a report from the Conservation Commission.
- (3) The Planning Board may require that the applicant provide data or reports prepared by a qualified hydrogeologist to assess any potential damage to the aquifer that may result from the proposed use. The Planning Board shall engage such professional assistance as it requires at the expense of the applicant to adequately evaluate such reports and to evaluate, in general, the proposed use in light of the above criteria.

**§ 220-134. Lots of record.**

For existing lots of record nonconforming lot size may be reconsidered; however, coverage size must be met. The Planning Board after review and recommendation by the Conservation Commission shall make this determination.

**§ 220-135. Design and operation guidelines.**

Where applicable the following design and operation guidelines shall be observed within the Aquifer Protection District:

- A. Nitrate loading. In those portions of the Aquifer Protection District where the aquifer has a saturated thickness of 20 feet or greater and a transmissivity greater than 1,000 feet squared per day, no development shall cause the nitrate-nitrogen (NO<sub>3</sub>-N) concentration to exceed five milligrams per liter in the groundwater beyond the site.

- B. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. For operations which allow the evaporation of toxic or hazardous materials into the interiors of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.
- C. Location. Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as on-site waste disposal systems shall be located outside the zone to the extent feasible.
- D. Drainage. All runoff from impervious surfaces shall be recharged on the site and diverted toward areas covered with vegetation for surface infiltration to the extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.
- E. Inspection. All conditional uses granted under § 220-133F of this article shall be subject to twice-annual inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted. A fee for inspection shall be charged to the owner according to a fee schedule determined by the Selectmen.
- F. Road standards shall ensure maximum local groundwater recharge occurs. [Added 9-12-2000]
- G. For uses that involve the storage of large volumes ( greater than 100 gallons) of regulated substances a Spill Prevention And Control Countermeasure (SPCC) Plan must be reviewed by a local emergency official (fire chief, health officer, or emergency management director). All deficiencies found during the plan review must be corrected before the Planning Board can grant approval. (Amended ATM 2015)

### **§220-135.1 Performance Standards**

- A. Impervious Surface Area – No more than 15% of the land area over an aquifer with a saturated thickness of greater than 20 feet and a transmissivity of greater than 1,000 feet squared per day.
- B. A Stormwater management plan must be prepared for conditional uses or any use that will render more than 15% of lot coverage or more than 2,500 square feet of any lot.
- C. All operations involving storage, transfer and/or use of petroleum, including gasoline or other fuels, solvents or other regulated substances must comply with the NH State regulation Env-Wq 401, Best Management Practices for Groundwater Protection.
- D. All transfers of petroleum including gasoline or other fuels, solvents or other regulated substances into or from regulated containers storing five (5) or more gallons must be conducted over an impervious surface.

- E. Where uses involve storing animal manures, fertilizers, and compost the NH Department of Agriculture, Markets, and Food Best Mangement Practices should follow guidelines in agricultural BMPs.
- F. All blasting activity must follow guidelines in NH Department of Environmental Services BMPs.
- G. Secondary containment must be provided for outdoor storage of regulated substances in regulated containers and the containment structure must include a cover to minimize accumulation of water in the containment area and contact between precipitation and storage container(s).
- H. All inactive wells must be decommissioned in accordance with WE 604, NH Water Well Board Rules to prevent contaminants from making their way to groundwater through the well.
- I. All expansion or redevelopment activities will require an amended Stormwater management plan. Stormwater infiltration must not pass through areas containing contaminated soils without a favorable outcome from the completion of a Phase 1 Environmental Site Assessment.

**§220-135.2 Enforcement Authority.**

- A. The Code Enforcement Officer shall have enforcement authority for all local regulations of this ordinance.
- B. All Plaistow enforcement procedures and policies shall also apply to this ordinance when a violation is confirmed by the Code Enforcement Officer.

**§ 220-136. Nonconforming uses.**

Any nonconforming 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. No nonconforming use may be changed to another nonconforming use or renewed after it has been discontinued for a period of one year or more.

**ARTICLE XIXA**  
**Storm Water - Operation and Maintenance**  
**[Added 3-8-2005 ATM by Art. P-11]**

**§ 220-136.1. Definitions.**

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

**BEST MANAGEMENT PRACTICE (BMP)** — A structural device, measure, facility, or activity that helps to achieve storm water management control objectives at a designated site.

**PLAN** — A document approved at the site design phase that outlines the measures and practice used to control storm water runoff at a site.

**§ 220-136.2. Design.**

- A. All storm water BMPs shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the most recent version of "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire."
- B. Storm water easements and covenants shall be provided by the property owner for access for facility inspections and maintenance. Easements and covenants shall be filed with and recorded by the Town of Plaistow prior to the issuance of a permit.
- C. Final design shall be approved by the Town of Plaistow.

**§ 220-136.3. Routine maintenance.**

- A. All storm water BMPs shall be maintained according to the measures outlined in the most recent version of "Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire," and as approved in the permit.
- B. The person(s) or organization(s) responsible for maintenance shall be designated in the plan. Options include:
  - (1) Property owner.
  - (2) Homeowner's association, provided that provisions for financing necessary maintenance are included in deed restrictions or other contractual agreements.
  - (3) Town of Plaistow.
- C. Maintenance agreements shall specify responsibilities for financing maintenance.

**§ 220-136.4. Non-routine maintenance.**

Non-routine maintenance includes maintenance activities that are expensive but infrequent, such as pond dredging or major repairs to storm water structures.

- A. Non-routine maintenance shall be performed on an as-needed basis based on information gathered during regular inspections.
- B. If non-routine maintenance activities are not completed in a timely manner or as specified in the approved plan, the Town of Plaistow may complete the necessary maintenance at the owner's/operator's expense.

**§ 220-136.5. Inspections.**

- A. The person(s) or organization(s) responsible for maintenance shall inspect storm water BMPs on a regular basis as outlined in the plan.
- B. Authorized representatives of the Town of Plaistow may enter the site at reasonable times to conduct on-site inspections or routine maintenance.
- C. For BMPs maintained by the property owner or homeowner's association, inspection and maintenance reports shall be filed with the Town of Plaistow as provided for in the plan.
- D. Authorized representatives of the Town of Plaistow may conduct inspections to confirm the information in the reports filed under Subsection C.



## **ARTICLE XX**

### **Adjustments**

#### **§ 220-137. Board of Adjustment.**

- A. Within 30 days after the adoption of this chapter and thereafter as terms expire or vacancies occur, the Board of Selectmen shall make appointments to a Board of Adjustment of five members conforming in duties to the provisions of Chapters 673 and 674 of the New Hampshire Revised Statutes Annotated, as amended. Thereafter, as terms expire or vacancies occur, the appointing authority shall be responsible for filling vacancies and maintaining full membership of the Board of Adjustment.
- B. The Board of Selectmen may provide for the appointment of not more than five alternate members to the Board of Adjustment, and the terms of alternate members shall be three years in accordance with Chapter 673:6 of the New Hampshire Revised Statutes Annotated, as amended.
- C. The Board of Adjustment shall conform in membership and term of office to the provisions of Chapter 673, New Hampshire Revised Statutes Annotated, as amended.

#### **§ 220-138. Special exceptions.**

- A. Eligibility. Special exceptions, as enumerated in Article V and elsewhere in this chapter, shall be permitted only upon authorization by the Board of Adjustment unless specifically stated otherwise. Such exceptions shall be found by the Board of Adjustment to comply with the following requirements:
  - (1) The use is a permitted special exception as set forth in Article V or elsewhere in this chapter.
  - (2) The use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.
  - (3) The use conforms to all applicable regulations governing the district where located.
  - (4) The applicant for a special exception agrees, as a condition of the special exception, to comply with applicable site plan development regulations and to receive approval of a site plan prior to applying for a building permit if required by the site plan review regulations.<sup>64</sup>
- B. General provisions. Certain intensity and types of uses of land and buildings may be allowed as a special exception only by approval of the Board of Adjustment provided the standards contained in this chapter are complied with. Before allowing such special exception, the Board of Adjustment shall first determine that the proposed use will conform to such requirements including:
  - (1) Required plan. Four copies of a plan for the proposed development of a site for a special exception shall be submitted with the application, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, and any other pertinent information that the Board may deem necessary to determine if the proposed use meets the requirements of this chapter. Said

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<sup>64</sup>. Editor's Note: See Ch. 230, Site Plan Review.

- plan shall be drawn to scale, a minimum of one inch equals 20 feet. Said plan shall be prepared by and bear the seal of a professional engineer, licensed in New Hampshire, and, if deemed necessary, by the Planning Board, Building Department, Zoning Board of Adjustment, architect, and/or land surveyor as well.
- (2) Expiration. A permit for a special exception shall be deemed to authorize only one particular use and shall expire if the use shall cease for more than one year for any reason, and a new application shall be submitted for continuation for such special exception.
  - (3) Existing violations. No permit shall be issued for a special exception for a property where there is an existing violation of this chapter unless the granting of the special exception will correct the violation.
  - (4) Criteria. In order for a special exception to be granted, the proposed use shall not adversely affect:
    - (a) The capacity of existing or planned community facilities.
    - (b) The character of the area affected.
    - (c) Traffic on roads and highways in the immediate vicinity.
    - (d) Safety of pedestrians in the area.
  - (5) Special criteria. In order for a special exception to be granted, the Board of Adjustment shall find that the special exception does not, in the case of remodeling a structure for multifamily dwelling or professional office in the Commercial II District, alter the exterior of the structure so that it will appear to be a multifamily dwelling or professional office, and no parking shall be allowed in front of the main structure.
- C. Conditions and minimum requirements applicable to special exceptions. If deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the Town as a whole by complying with the Town Plan, the Board of Adjustment shall impose conditions in granting a special exception. These additional conditions shall include but not be limited to the following, as deemed appropriate and after due public hearing:
- (1) Increasing the required lot size or yard dimensions in order to protect the adjacent properties.
  - (2) Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
  - (3) Controlling the location and number of vehicular access points to the property.
  - (4) Increasing the street width adjacent to the property.
  - (5) Increasing the number of on-site off-street parking or loading spaces required.
  - (6) Limiting the number, location, and size of signs on site.
  - (7) Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area.

- (8) Specifying a time limit for initiation of construction, alteration, or enlargement of a structure to house an exception.
- (9) Providing for specific layout of facilities on the property such as location of the building, parking areas, and access to the building so as to minimize effect on adjoining property.
- (10) Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Board of Adjustment.
- (11) Specifying standards for operation of this special exception so that it will be no more objectionable to the neighborhood by reasons of noise, odors, vibrations, flashing lights, or hours of operation than would be the operation of a permitted use at that site.
- (12) Specifying the length of time of the special exception and time of occupancy during the year.
- (13) Specifying that, in case of the remodeling of existing structures into two-family or multifamily dwelling units, or lodging house use, the remodeling of the structure would be done in such a manner that will not substantially change the exterior appearance of the structure.
- (14) Requiring such additional, reasonable conditions and safeguards as may be necessary to implement the purposes of this chapter and to protect the best interests of the surrounding property and the neighborhood.

## **ARTICLE XXI**

### **Fines and Penalties**

#### **§ 220-139. Fines and penalties.**

Pursuant to RSA 676:17, any violation of this chapter, the subdivision regulations or site development plan review regulations shall be made punishable by a fine of the maximum allowed by the Revised Statutes Annotated. for each day that such violation is judged by the court to continue after the violator receives written notice from the municipality that he or she is in violation of any ordinance or regulations so adopted under this chapter.

#### **§ 220-140. Action to prevent or abate violations.**

The Board of Selectmen may institute in the name of the Town of Plaistow any appropriate action or proceedings to prevent, restrain, correct, or abate violations of this chapter.

## **ARTICLE XXII**

### **Saving Clause**

#### **§ 220-141. Severability.**

The invalidity of any provision of this chapter shall not affect the validity of any other provision.

## **ARTICLE XXIII**

### **When Effective**

#### **§ 220-142. Effective dates.**

This article shall take effect upon its passage and as amended. The effective dates are as follows: adopted March 14, 1956; amended March 20, 1962; March 10, 1963; March 7, 1972; March 7, 1973; June 26, 1973; March 5, 1974; March 4, 1975; March 2, 1976; March 8, 1977; March 14, 1978; March 13, 1979; June 16, 1981; March 9, 1982; September 14, 1982; March 8, 1983; March 12, 1984; March 14, 1985; June 25, 1985; March 12, 1986; March 10, 1987; June 21, 1988; March 14, 1989; March 13, 1990; March 12, 1991; March 10, 1992; March 9, 1993; March 8, 1994; March 7, 1995; March 12, 1996; April 8, 1997; March 10, 1998; March 9, 1999; March 14, 2000; March 13, 2001; March 12, 2002; March 11, 2003; March 9, 2004; March 8, 2005; July 7, 2005; March 14, 2006; March 13, 2007; September 18, 2007; March 11, 2008; March 10, 2009; March 9, 2010; March 8, 2011; March 13, 2012; March 12, 2013.