

Chapter 171

ZONING

Article I. Title, Authority, and Purpose

§ 171-1. Short Title.

This by-law shall be known and may be cited as the "Zoning By-Law" of the Town of Palmer, Massachusetts," hereinafter referred to as "this by-law."

§ 171-2. Authority.

This by-law is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts, as amended by Chapter 808 of the Acts of 1975, as amended, herein called the "Zoning Act."

§ 171-3. Purpose.

This by-law is enacted for the following purposes: to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic, and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage appropriate uses of land throughout the Town; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives.

This by-law was written with careful thought and reasonable consideration to the character of this community. Careful consideration has also been given to defining each district and to the suitability of particular uses within those districts. This by-law was written to help guide land development policies and proposals of the Planning Board, in order to make Palmer a more viable and more pleasing place to live, work, and play.

Article II. Definitions

§ 171-4. General.

For the purpose of this by-law and unless the context of usage clearly indicates another meaning, certain terms and words shall have the meaning given herein. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "building," "structure," "lot," "land," "plot", or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory.

§ 171-5. Definitions.

ABANDONMENT: The cessation of a nonconforming use as indicated by the visible or otherwise apparent intention of an owner to discontinue a nonconforming use of a structure or lot; or the removal of the characteristic equipment or furnishing used in the performance of the nonconforming use, without its replacement within two (2) years by similar equipment or furnishings; or the cessation of a nonconforming use or use of a structure caused by its replacement with a conforming use or structure.

ACCESSORY APARTMENT: A subordinate dwelling unit that is intended for use as a complete, independent living facility located in a residence constructed as, and having the character of, a single

family residence, which subordinate dwelling unit does not substantially alter the character and appearance of the residential structure or its conformity with the character of the neighborhood.

ACCESSORY BUILDING: See **BUILDING, ACCESSORY.**

ACCESSORY SIGN: See **SIGN, ACCESSORY.**

ACCESSORY USE: See **USE, ACCESSORY.**

ADULT RETAIL BUSINESS: A retail business establishment including a bookstore, having a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by the emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31. For purposes of this definition, the phrase “substantial or significant portion” means an amount of stock in trade or sales of books, magazines, videos, peep show booths, or other visual or audio material which is greater than ten percent of the entire stock or sales.

ADULT THEATRE: An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in General Laws, Chapter 272, Section 31, where such material constitutes a substantial or significant portion of materials shown. For purposes of this definition “substantial or significant portion” means movies, films, videos, tapes or other visual or audio materials are greater than ten percent of all such material shown or played.

ADULT USE BUSINESS: Any business defined in this by-law, and in Chapter 40A, Section 9A, M.G.L., as may be amended, as an adult bookstore, an adult motion picture theater, an adult paraphernalia store, an adult video store, or an establishment which displays live nudity for its patrons.

AGENCY VEHICLE: Any vehicle such as an automobile, van, light or heavy truck, bus, tractor, snow removal vehicle or motorcycle that is used by the employees or agents of the organization to conduct regular or special business. This definition excludes those vehicles used by individual employees or agents to commute to the site from their homes.

AGRICULTURE FAIR: A principal use operated either for profit or not for profit, with the principal purpose being the promoting of agricultural activities, whether these be provided to the public at large or to the members of any particular organization and including, but not limited to, any of the following uses: entertainment, amusement, sports, recreation, racing, storage and handling of animals, judging, showing and auctioning of animals, overnight camping of scouts and other like organizations.

AGRICULTURE: A use which has as its principal purpose the raising of agricultural products for commercial or home use, but not including the raising of livestock or farm animals on parcels of five (5) acres or less, and not including the sale of products, except for products raised on the premises. This term shall include aquaculture, floriculture, horticulture, vitaculture and silvaculture.

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

ANTENNA: A device used to receive or transmit telecommunications or radio signals. Such signals shall include, but not be limited to radio, television, cellular telephone, paging, personal communications services (PCS), and microwave communications. Examples include panels, microwave dishes, and single poles known as whip antennae.

APARTMENT BUILDING: A building containing three or more dwelling units including apartment houses and garden apartments but not including townhouses.

AQUIFER: Geologic formation composed of rock or sand and gravel that contain significant amounts of potentially recoverable potable water. Aquifer locations in the Town of Palmer are depicted on a map entitled “Aquifer Protection District: Palmer, originally prepared by the Pioneer Valley Planning Commission, February 1987” and revised February 28, 2005 and available for review at the Town Administration Building.

AVERAGE FINISHED GRADE: A reference horizontal plane representing the average of finished ground level adjoining a building at all exterior walls.

AWNING/CANOPY: A structure attached to a building, the function of which is to shelter the building's window(s) or door(s), and pedestrians from rain, wind and sun.

BASE FLOOD ELEVATION: See **FLOOD ELEVATION, BASE.**

BASEMENT: That portion of a building which is partly or completely below grade.

BICYCLE AND PEDESTRIAN PATHWAY: Any facility or site improvement which separates bicycle and pedestrian traffic from vehicular traffic. Such pathways may include but are not limited to: specially marked bicycle and pedestrian routes within parking areas, raised walkways, off road bicycle paths, and sidewalks.

BOARD OF APPEALS: The Zoning Board of Appeals of the Town of Palmer, Massachusetts.

BOARDING HOUSE, ROOMING HOUSE: A building in which rooms and sometimes meals are provided for compensation to persons other than members of the family or proprietor.

BUILD TO LINE: An alignment that visually defines the front yard setback from a street or public right-of-way established by buildings and structures along that street. **In the Village Center District, the Average Build-To-Line for a proposed site is calculated by averaging the front yard setbacks of the three closest, existing primary structure on both sides of the proposed site (a total of 6 structures).**

BUILDING: A combination of any materials, whether portable or fixed, with or without a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals, or property.

BUILDING, ACCESSORY: A detached building, the use of which is customarily incidental and subordinate to that of the principal building, and which is located on the same lot as that occupied by the principal building OR on a contiguous lot under same ownership.

BUILDING AREA: The ground area enclosed by the walls of a building, together with the area of all covered porches and other roofed portions, including areas covered by building overhangs in excess of eighteen (18) inches and uncovered decks at least 30” above grade.

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

BUILDING COVERAGE: The building area expressed as a percent of the total lot area.

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

BUILDING LINE: The line established by this by-law beyond which a building shall not extend, except as specifically provided in this by-law.

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

BUILDING, NONCONFORMING: A building, lawfully existing at the effective date of this by-law, or any subsequent amendment thereto, which does not conform to one or more of the applicable regulations for the district in which the building is located.

BUSINESS: Customary commercial pursuits and transactions.

BUSINESS OFFICE: See **OFFICE.**

BUSINESS SERVICE AND SUPPLY SERVICE ESTABLISHMENT: Any building wherein the primary occupation is the provision of services or supplies to the business, commercial, industrial or institutional community but not including retail sales to the general public except as a secondary and subordinate ancillary activity.

CAMPGROUND: A lot upon which two or more campsites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation or vacation purposes.

CAMPSITE: A plot of land within a campground intended for the accommodation of one tent, recreation vehicle or other individual camping unit on a temporary basis not to exceed 30 days for the same unit in any twelve-month period.

CERTIFICATE OF USE AND OCCUPANCY: A statement signed by the Building Inspector setting forth either that a building or structure complies with the zoning by-law or that a building, structure or parcel of land may lawfully be employed for specified uses, or both.

CLUB OR LODGE: An organization of persons incorporated pursuant to the provisions of membership corporations laws or the benevolent orders laws, which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain and includes the establishment so operated.

CLUSTER RESIDENTIAL DEVELOPMENT: A development undertaken in accordance with the provisions of § 171.76 of this ordinance, which may consist of a variety of dwelling types integrated with each other and with a significant area of common open space, and developed at a density not exceeding that which would be ordinarily expected from a typical conventional subdivision.

COMMERCIAL VEHICLE: A vehicle registered for commercial use with the Commonwealth of Massachusetts or other state.

COMMUNITY RESIDENCE: See **HALFWAY HOUSE.**

COMPOSTING FACILITY: A site at which materials capable of being composted are collected, separated, processed, recovered, or otherwise made capable of reuse or use in a different form. Such materials may also be sold at such site. This definition is intended to be limited to the composting of organic materials.

CONSTRUCTION SUPPLY ESTABLISHMENT: A retail establishment the primary purpose of which sells, rents, leases, services, and/or otherwise maintains materials and/or equipment involved in construction activities, including, but not limited to hardware, lumber, and equipment sales, and millwork. The hiring out of construction equipment intact with an operator is not considered to be a part of a construction supply establishment.

DAMAGE TO THE ENVIRONMENT: Any destruction, damage or impairment, actual or probable, to any of the natural resources or aesthetic beauty of any place within the commonwealth including, but not limited to, air pollution, water pollution, improper sewage disposal, pesticide pollution, excessive noise, improper operation of dumping grounds, impairment and eutrophication of rivers, streams, floodplains, lakes, ponds, or other surface or subsurface water resources, destruction of seashores, dunes, marine resources, underwater archaeological resources, wetlands, plant life, open spaces, natural areas, parks, or historic districts or sites.

DISTRICT: A zoning district as established by Article III of this ordinance.

DORMITORY: A building containing sleeping rooms, dining rooms, common rooms, and accessory facilities intended exclusively for the use of students of an educational institution, having been constructed or converted by that institution or with its specific authorization.

DRIVE-THROUGH ESTABLISHMENT: A business establishment wherein patrons are usually served while seated in parked vehicles in the same lot. The term "drive-through" includes drive-through service establishments such as banks, cleaners, and the like; and automotive service stations, gasoline stations, or the like.

DRIVE-THROUGH EATING ESTABLISHMENT: A business establishment wherein food is usually served to or consumed by patrons while they are seated in parked motor vehicles.

DRIVE-THROUGH USE: An establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

DRIVEWAY: A space, located on a lot, built for access to a garage or off-street parking or loading space.

DWELLING: A privately or publicly owned permanent building which is occupied in whole or part as the home residence or sleeping place of one or more persons. The terms "one-family", "two-family", "three-family" or "multi-family" dwelling shall not include hotel, lodging house, hospital, membership club, mobile home, or dormitory.

DWELLING, MOBILE HOME: A single family residential unit with all of the following characteristics; (a) designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; (b) designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels; (c) arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like; (d) designed for removal to and installation or erection on other sites.

A mobile home shall be defined to include two (2) or more units, separately towable, which when joined together have the characteristics as described above. For the purposes of this by-law, a mobile home shall not be deemed a "one-family dwelling".

DWELLING, MODULAR UNIT: A factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this by-law a modular unit shall not be deemed a "mobile home" but shall be regarded as a conventional dwelling, subject to the rules and regulations contained herein.

DWELLING, MULTI-FAMILY: A building containing four (4) or more dwelling units and including apartment houses and garden apartment house, but not including a townhouse.

DWELLING, ONE-FAMILY: A detached building containing one dwelling unit, also referred to as a "single family dwelling".

DWELLING, THREE-FAMILY: A detached building containing three (3) dwelling units, but not including a townhouse.

DWELLING, TWO-FAMILY: A detached building containing two (2) dwelling units.

DWELLING UNIT: Three or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking, and sanitation; and including any unit which is rented, leased, or including a unit available under a condominium or cooperative arrangement.

DWELLING UNIT, EFFICIENCY: One or two living and/or sleeping rooms providing complete living facilities for one or two individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking, and sanitation; and including any unit which is rented, leased, or including a unit available under a condominium or cooperative arrangement.

EARTH PRODUCTS EXCAVATION: The removal of the following earth products: sand, gravel or smaller unprocessed rock, clay, earth loam, and/or topsoil.

ELDERLY HOUSING: The word elderly housing shall include state-aided or federally aided housing developments for the elderly and/or communities consisting of either a structure or structures constructed expressly for use as housing for persons fifty-five or over or sixty-two or over, on one parcel or on contiguous parcels of land, totaling at least five acres in size or as is consistent with M.G.L. Chapter 151B § 4, Subsection 6 as may be amended from time to time (Amended ATM – May 14, 2001, Article 29).

ESSENTIAL FACILITIES: Facilities necessary for the provision of services ordinarily provided by municipalities, public corporations, and public or private utilities, which facilities must provide a link (interrupted only by intermediate facilities) between central facilities of the utility and individual lots served including, but not necessarily limited to gas, water, and sewer mains; storm sewers; electrical and communication wires, whether underground or overhead; police and/or fire call boxes, hydrants, and other stations or terminals of such continuous systems; and facilities accessory to such systems, including but not limited to manholes, telephone poles, and the like, but not including any intermediate facility, such as a major electrical sub-station; a telephone dial center, or a sewage pumping station, any facility defined under municipal facilities, any use listed under the definition of heavy public use, or any facility of a public corporation or of a public or private utility which is separately listed in Table of Use Regulations.

ESTABLISHMENTS WHICH DISPLAY LIVE NUDITY: An establishment which provides live entertainment for its patrons, which includes the display of nudity as that term is defined in Chapter 272, § 31, M.G.L. as may be amended.

EXTENDED CARE HOME: SEE NURSING HOME:

FAMILY: Any number of individuals related by blood, marriage, or legal adoption living together as a single housekeeping unit. (and including necessary domestic help such as nurses or servants.) A group of individuals not related by blood, marriage, or legal adoption, but living together as a single housekeeping unit. For purposes of controlling residential density each such group of four (4) individuals shall constitute a single family.

FAMILY DAY CARE (in the home): Any private residence which on a regular basis, receives for temporary custody and care for compensation during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided however, in either case, that the total number of children under sixteen years of age in a family day care in the home shall not exceed six, including participating children living in the residence. Family day care in the home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefore, or where all of the children are of the family of the owner/occupant of the private residence.

FAMILY DAY CARE HOME LARGE (in the home): Allows for the care of children as described in family day care home above. The maximum number of children will be ten children including the provider's children. In this situation an assistant must be employed.

FAMILY DAY CARE HOME PLUS (in the home): Allows for the care of six children as stated in Family Day Care Home, plus two additional school age children or an amount as currently defined by state law.

FARM: An area devoted to agricultural uses with a minimum area of five acres.

FILLING: Any deposit, placement, storage and/or redistribution of soil, earth, sand, gravel, rock, loam, or other similar material on any land, wetland, or in watercourses and including the conditions resulting therefrom.

FLEA MARKET: A temporary outdoor sales event in which vendors sell personal used or handcrafted items to the general public. Specific regulations can be found in § 171.87.

FLOOD ELEVATION, BASE or FLOOD ELEVATION, ONE HUNDRED YEAR: The flood elevation shall be as indicated on the "Flood Insurance Rate Map", prepared by the US Department of Housing and Urban Development for the National Flood Insurance Program.

FLOODPROOFED: To be made watertight to the level of the 100-year flood with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as certified by a registered professional engineer.

FLOOR AREA, GROSS: The sum of the gross horizontal area of the several floors including basements of a principal building as measured from the interior faces of its exterior walls. It does not include cellars; unenclosed porches or attics not used for human occupancy; malls within a shopping center utilized purely for pedestrian circulation and/or decorative purposes between individual shops of the center; any floor space in an accessory or principal building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this by-law; or any such floor space intended or designed for accessory heating, ventilating and air conditioning equipment.

FLOOR AREA RATIO: The ratio of the gross floor area to the total lot area.

FRATERNITY AND/OR SORORITY: A building containing sleeping rooms, dining rooms, common rooms, and accessory facilities intended exclusively for the use of students of a college or university who belong to a group or organization which involves common living and which group is organized and operated with the specific approval and under the regulations of the institution.

FRONTAGE: See **LOT FRONTAGE**

FUNERAL ESTABLISHMENT: A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services necessary for the preparation of the dead for burial, (b) the performance of autopsies and other surgical procedures, (c) the storage of caskets, funeral urns, and other related funeral supplies, (d) the storage of funeral vehicles, (e) facilities for cremation, and (f) the living quarters of an individual and that individual's family, whose bonafide occupation is in the funeral establishment.

GARAGE, PRIVATE: A garage(s) for housing motor vehicles, with a capacity of not more than three (3) vehicles for a single family dwelling, plus the capacity for one additional vehicle for each additional dwelling unit.

GARAGE, PUBLIC: A building other than a private or community garage used for maintenance, repair and storage of vehicles and equipment.

GROUNDWATER: All the water found beneath the surface of the ground.

HALFWAY HOUSE or **COMMUNITY RESIDENCE**: A building containing sleeping rooms, common rooms, dining rooms, and accessory facilities intended exclusively for the use of participants of a program of rehabilitation of individuals prior to their complete reentry into normal society, which program is formally recognized by an agency of the Commonwealth. One or more individuals responsible for the operation of a halfway house shall be resident therein, and facilities for such resident director and his family shall be provided.

HAZARDOUS MATERIAL: Material including but not limited to, any materials, in whatever form, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term shall not include oil.

HAZARDOUS WASTE: A waste which is hazardous to human health or the environment as designated by the US Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts hazardous Waste Management Act, M.G.L., Chapter 21C.

HEAVY PUBLIC USE: Any building, structure, or use of land, whether such use is conducted on public property or not, by an agency (if not already exempt from local zoning) of:

- A. A city or town other than the Town of Palmer,
- B. A county,
- C. The commonwealth,
- D. The United States,
- E. And any of the following specific uses conducted by the Town of Palmer: truck or equipment storage garage or yard; vehicle repair garage; sewage treatment or water treatment plant; incinerator; sanitary landfill; or waste recycling plant; or any privately owned and/or operated sanitary landfill; dump; incinerator; or water or sewage treatment facility; or sewage lift station.

HEIGHT: The vertical distance from the average finished grade within ten (10) feet from the walls of the structure to the top of the structure of the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof. For structures having roofs or outside top coverings other than those listed here, or structures having no roof at all, the height shall be defined as the vertical distance from average finished grade to the highest point.

HISTORICAL SOCIETY: A society or group that serves as the keeper of records and authentic materials that can explain and authenticate past times, places and/or events. A Historical Society may be a municipal group or other private group.

HOME OCCUPATION: A vocation, trade, small business, craft, art or profession which can be conducted in entirety within the main (principal) or accessory building of a property by a bonafide resident or residents of that main building and which, by nature of its limited size and scope, will not cause any outward manifestation (such as traffic generation, parking congestion, noise or air pollution, materials storage, public service, utility demand, etc.) which is uncharacteristic of or an additional disturbance to the particular residential neighborhood in which said property is located. The following occupations shall be specifically excluded:

Any clinic, veterinary hospital, restaurant, retail or wholesale supply shop or store, mortuary, office of doctor, lawyer, real estate or insurance agent. (See § 171-81 for additional Special Permit criteria.)

HOSPITAL: A building providing, among others, 24-hour inpatient services for persons admitted thereto for the diagnosis, medical, surgical or restorative treatment or other care of human ailments, including a sanitarium.

HOSPITAL, VETERINARY: A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care, but not including crematory facilities.

HOTEL: A building or group of buildings, part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances or individual exterior entrances; and including an inn, motel, motor inn and tourist court, but not including a boarding house, lodging house or rooming house.

IMPERVIOUS SURFACES: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

INDUSTRIAL PARK, BUILDINGS: An area in which one or more industries form a unit and for which a plan of development for the site is required.

INDUSTRY: Manufacturing, fabricating, assembling, finishing, packaging, processing or research and development.

JUNK: Any worn out, castoff, or discarded articles or material which is ready for destruction or has been collected or stored for salvage or conversion to some use. Any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new shall not be considered junk.

JUNK MOTOR VEHICLE: Any motor vehicle not capable of being used as such in its existing condition by reason of being damaged or dismantled or failing to contain parts necessary for operation and otherwise qualifying as junk.

JUNK YARD: The use of any area, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, or scrap or discarded materials, or the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL: A building or buildings for the keeping or breeding of dogs or other permitted small animals.

LARGE-SCALE CONFERENCE/ENTERTAINMENT FACILITIES: An indoor or outdoor land use attracting large numbers of both local and regional visitors for conference and/or entertaining purposes including, but not limited to, business meetings, sporting events, concerts, family events and amusements, and trade shows. A large scale conference facility is defined as having a minimum of one hundred seventy-five (175) hotel rooms and/or greater than twenty thousand (20,000) square feet of meeting and exhibition space and could include meeting and exhibition rooms, guest rooms, suites, resort amenities, dining and food services, personal services for the occupants of the facility, gaming facilities if duly authorized by the Commonwealth of Massachusetts, and entertainment. A large-scale entertainment facility is defined as having a minimum seating capacity of two thousand (2,000) seats or capacity for a minimum of two thousand (2,000) visitors during peak hours and could include arenas, amphitheatres, mega theaters, stadiums and ballparks, other sports facilities, and theme parks.

LEACHABLE WASTES: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

LIGHT INDUSTRY: Light industries include those businesses which manufacture, process, store, package, or distribute goods and materials, and, are, in general, dependent on raw materials refined elsewhere.

LIVESTOCK: Livestock shall include horses, cows, goats, sheep, pigs, llamas, donkeys, burros, rabbits, chickens, geese, ducks, and similar animals.

LIVING SPACE: The net floor area within a dwelling unit exclusive of utility rooms, closets, attics, and cellars.

LOADING SPACE: An off-street space at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than thirteen hundred (1,300) square feet which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Building Inspector to not less than three hundred (300) square feet, which includes access, and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area listed above.

LODGING HOUSE: A building containing four (4) or more lodging units.

LODGING UNIT: One or more rooms for the semi-permanent use of one, two, or three individuals not living as a single housekeeping unit and not having individual kitchen facilities. A "lodging unit" shall include rooms in boarding houses, lodging houses or rooming houses. It shall not include convalescent, nursing or rest homes; dormitories or charitable, educational or philanthropic institutions; or apartments, hotels or tourist homes/bed and breakfast facilities.

LOT: An area or parcel of land or any part thereof, in common ownership, designated on a plan filed with the Building Inspector by its owner or owners as a separate lot and having boundaries identical with those recorded in the Hampden County Registry of Deeds. The following shall not be counted toward land within the minimum lot area: Land under permanent water bodies; land within public ways, and land within private ways and rights-of-ways where the general public has the right of access by automotive vehicles. When calculating the lot area for multiple occupancy buildings, wetlands and lands exceeding a natural forty-five degree angle will be excluded.

LOT CORNER: A lot at the point of intersection of and abutting on two or more intersecting streets. In the case of a corner lot, the rear lot line shall be the line opposite the street line on which the building would be numbered.

LOT COVERAGE: The percent of the total lot area that is covered by main buildings, accessory structures, parking areas or other structures so as to render the land impervious.

LOT DEPTH: The minimum distance required in any district as set forth in the Table of Dimensional Requirements. Lot depth shall be the distance between the front lot line and the rear lot line as measured perpendicular to the front lot line or extension thereof.

LOT FRONTAGE: A continuous lot line along the sideline of a street, which provides safe, convenient and meaningful vehicular and utility access to the buildable portion of the lot. Calculation of the "frontage" dimensional requirements shall be in conformance with the Table of Dimensional Requirements of this chapter.

LOT, INTERIOR: Any lot other than a corner lot or a through lot.

LOT LINE, FRONT: The property line dividing a lot from a single street right-of-way. In the case of a corner lot or a through lot, at least one front lot line shall conform to the minimum lot frontage requirement.

LOT LINE, REAR: The lot line most nearly opposite from the front lot line.

LOT LINE, SIDE: Any lot line not a front or rear lot line.

LOT, NONCONFORMING: SEE PRE-EXISTING NON-CONFORMING LOT:

LOT, THROUGH: A lot which abuts two (2) streets, but not at their intersection.

LOT, WIDTH: The required minimum distance between side lot lines, measured at the minimum front set back line for any given district. The minimum lot width shall be equal to the minimum frontage required in any given district.

MEDICAL CENTER: A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, (including physicians, dentists, optometrists, ophthalmologists, and persons engaged in all fields related generally to medicine, but not including veterinarians) and including such common facilities as an outpatient clinic or emergency treatment rooms, but not including inpatient facilities.

MEMBERSHIP CLUB: A social, sports, or fraternal association or organization, which is used exclusively by members and their guests and is not conducted as a gainful business and which does not hold a license to sell alcoholic beverages.

MEMBERSHIP CLUB, FOR PROFIT: A business or organization that is used exclusively by members and their guests for shopping in a wholesale or group sale atmosphere.

MOBILE HOME: See **DWELLING, MOBILE HOME.**

MODULAR HOME: See **DWELLING, MODULAR HOME.**

MODULAR UNIT: A factory-fabricated transportable building designed to be used by itself (for classroom or office space) or to be incorporated with similar units at a building site into a modular structure that will be a finished building in a fixed location. The term is intended to apply to major assemblies, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub-elements incorporated into a structure at the site. For the purpose of this by-law a modular unit shall not be deemed a "mobile home".

MOTOR VEHICLE: Any vehicle self-propelled, which are permitted and requires a valid registration legally issued by a governmental authority in order to be operated on a public way. A motor vehicle shall include, but not be limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, and tractors.

MOTOR VEHICLE ACCESSORIES: Any part or parts of any motor vehicle.

MUNICIPAL FACILITIES: Facilities utilized in the provision of services normally provided by municipalities, such as schools, parks, playgrounds, municipal office buildings, and the like, but not including any facility defined under essential facilities, any facility defined as a heavy public use, or any use, specifically listed in the Table of Use Regulations.

NON-ACCESSORY SIGN: See **SIGN, NON-ACCESSORY.**

NURSING HOME: Also known as extended care home, rest home, or convalescent home. A nursing facility is any place containing beds for two (2) or more patients, established to render domiciliary and/or nursing care for chronic or convalescent patients and which is properly licensed by the Commonwealth, but not including child care homes, or facilities for the care of drug addicts, alcoholics, mentally ill or developmentally disabled patients.

OFFICE OR BUSINESS OFFICE: A room, studio, suite or building in which a person transacts his business or carries on his stated occupation. For the purpose of this by-law, an office shall not involve manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials, goods and products which are physically located on the premises. An office shall not be deemed to include a veterinary hospital.

ONE HUNDRED YEAR FLOOD ELEVATION - See **FLOOD ELEVATION, BASE.**

OPEN SPACE: The space on a lot unoccupied by buildings or structures, unobstructed to the sky by man-made objects other than walks, swimming pools, and terraced areas, not devoted to streets, driveways, off-street parking or loading spaces and expressed as a percentage of total lot area.

OUTDOOR ADVERTISING BOARD: The Outdoor Advertising Board of the Commonwealth of Massachusetts or any board or official, which may hereafter, succeed to its powers or functions.

OUTDOOR COMMERCIAL RECREATIONAL USE: A principal (but not accessory) use operated either for profit or not for profit, with the principal purpose being the provision of outdoor recreational facilities, whether these be provided to the public at large or to the members of any particular organization, and including, but not limited to any of the following uses: fishing, golf, tennis, or swimming club, or golf driving range, sports camp, campground, marina, or horseback riding establishment (Amended ATM, May 15, 2001, Article 29 and ATM, June 16, 2003 Article 11).

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

PARKING SPACE: A space at least 9 feet in width and 18 feet in length, with at least eighteen (18) feet of backing-up and maneuvering area directly behind the space (which may be shared with a space directly behind it), as exclusive use as a parking stall for one motor vehicle.

PEDESTRIAN FRIENDLY: The presence of facilities and design features that make a physical environment safe, convenient and aesthetically pleasing to pedestrians. These include but are not limited to: walkable distances between uses (i.e. under ¼ mile); sidewalks, paths and walkways; continuous visual interest (i.e. public art, plantings, pavement patterns, uninterrupted line of buildings, attractive fencing in front of parking areas, murals on blank walls, infill development, pocket parks, etc.); consumer uses (i.e. restaurants, shops, cinemas, markets); trees for shade; awnings for shelter; buildings and landscaping elements sited to provide windbreaks; presence of people (i.e. sidewalk cafes, street vendors, evening business hours); good maintenance; buffers between vehicles and pedestrians (i.e. planted medians, on street parking, grade separation); paths connecting adjacent uses; crosswalks and ramps; traffic calming devices; traffic lights; over and underpasses.

PERMIT, TEMPORARY OCCUPANCY: A permit issued by the Building Inspector indicating near-compliance with the provisions of this by-law and allowing occupancy or use on a temporary basis while full compliance is achieved.

PERSONAL AND CONSUMER SERVICE ESTABLISHMENT: Any building wherein the primary occupation is the repair, care of, maintenance or customizing of personal properties that are worn or carried about the person or are a physical component of the person. For the purpose of this by-law, personal service establishments shall include, but need not be limited to, barber shops, beauty shops, pet grooming establishments, laundering, cleaning and other garment servicing establishments, tailors, dressmaking shops, shoe cleaning or repair shops, health clubs, and other similar places of business, but not including offices of physicians, dentists, and veterinarians, or any establishment with a gross floor area of more than ten thousand (10,000) square feet.

PRE-EXISTING NONCONFORMING LOTS: A lot which, when originally created, conformed to any zoning requirements relative to minimum lot area, minimum lot width and frontage, and/or minimum lot depth which were then in effect, but which zoning requirements have since been amended so that said lot would no longer conform in all respects to such new requirements.

PRE-EXISTING NONCONFORMING STRUCTURES: A structure or addition which, when originally constructed, was lawfully in existence or lawfully begun and conformed to any zoning requirements relative to minimum setbacks, maximum floor area ratio or other dimensional and area

requirements which were then in effect, but which zoning requirements have since been amended so that such structure or addition would now require a Variance.

PRE-EXISTING NONCONFORMING USE: A use which, when originally commenced, was lawfully in existence or lawfully begun and was permitted in the Zoning District in which it was located, but since then the Zoning ordinance has been amended so that such use would now require a Special Permit or would be prohibited.

PRIMARY AQUIFER RECHARGE AREA: Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.

QUICK VEHICLE SERVICING: Shall refer to a facility servicing vehicles in a quick manner such as car washes, vehicle lubrication facilities and like businesses (Added ATM, May 14, 2001, Article 29).

RECEIPT: As used herein, receipt of an application or of a request means an official receipt on the forms or in the format prescribed by the board or agency responsible for reviewing the application and accompanied by all of the supporting materials or documentation and fees by the board or agency as being necessary at the time of or the signature of an appropriate official showing the time and date of the receipt, such stamp or signature to be used only after the entire application, including all supporting material has been checked for completeness and accuracy.

REPAIR SERVICE ESTABLISHMENT: Any building wherein primary occupation is the repair and general servicing of appliances, tools, and other small machinery common to use in homes or businesses, but not including automotive repair or automobile service stations; or any place wherein the primary occupation is interior decorating, to include reupholstering and the making of draperies, slipcovers, and other similar articles, but not to include furniture or cabinet making establishments.

SECONDARY RECHARGE AREA: Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface waterflow is toward public water supply wells or potential sites for such wells.

SERVICE STATION: A building or part thereof whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service or general auto repair.

SETBACK: The minimum distance from a lot line to a building placed thereon, or feature thereof as is required in a particular situation by the TABLE OF DIMENSIONAL AND DENSITY REGULATIONS. Said Setback shall be measured perpendicular (at right angles) to the lot line. At no point shall any structure on the lot be any closer to any street line, whether said street line directly abuts the lot or not, than the minimum front yard setback requirement for that Zoning District.

SETBACK, FRONT: Setback required from a front line and from any street line of a corner lot or a through lot.

SETBACK LINE: A line, whether straight or not, which denotes the location of the minimum setback.

SETBACK, REAR: Setback required from a rear line.

SETBACK, SIDE: Setback required from a sideline.

SIGN: Any permanent or temporary structure, device, letter, work, model, banner, pennant, insignia, trade flag, balloon or blimp or representation used as, or which is in the nature of, an advertisement, announcement, or direction, or is designed to attract the eye by any means including intermittent or repeated motion or illumination.

SIGN, ACCESSORY: Any sign that advertises or indicates the person occupying the premises on which the sign is erected or maintained or the business transacted thereon, or advertises the property itself or any part thereof as for sale or rent, and which contains no other matter.

SIGN, BUSINESS: A sign used to direct attention to a service, product sold, or other activity performed on the same premises upon which the sign is located.

SIGN, GENERAL ADVERTISING: Any sign advertising products or services other than products or services available on the lot on which the sign is located, or any sign which is not located within two hundred (200) feet of the building or other structure at which the products or services thereon are available.

SIGN, GROUND: A sign erected on or affixed to the land including any exterior sign not attached to a building.

SIGN, IDENTIFICATION: A sign used simply to identify the name, address, and title of an individual family or firm occupying the premises upon which the sign is located or to give information, such as time or temperature.

SIGN, NON-ACCESSORY: Any sign not an accessory sign.

SIGN, SURFACE AREA OF: For a sign, either free-standing or attached, the area shall be considered to include all lettering, background whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing, which are incidental to the display itself. For a sign consisting of individual letters, designs and symbols attached to or painted directly on the surface of a building, wall, window, awning/canopy or other approved surfaces, with no other background, the area shall be considered to be that of the smallest quadrangle which encompasses all of the letters, designs, and symbols. The largest side of a two-sided sign shall be used in calculating the surface area of such a sign provided that the two sides are joined at an angle of no greater than sixty (60) degrees.

SIGN, WALL: A sign affixed to the exterior wall of a building and extending not more than fifteen (15) inches therefrom.

SPECIAL PERMIT: A special authorization to conduct a particular use or to take advantage of a particular situation set forth in this ordinance, subject to the provisions of this by-law, the Table of Use Regulations, where applicable, and the particular section authorizing the special permit where applicable.

SPECIAL PERMIT GRANTING AUTHORITY: The Planning Board unless otherwise specified in the Chapter. In certain situations the Special Permit Granting Authority may be the Zoning Board of Appeals or the Board of Selectmen where designated.

STORY: The portion of a building, which is between one floor level and the next higher floor level. If a mezzanine floor area exceeds one-third of the area of the floor immediately below it, the mezzanine shall be deemed to be a story. A basement shall be deemed to be a story, and a cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

STORY, HALF: A story under a gable, hipped, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such story.

STRUCTURE: A combination of materials for permanent or temporary occupancy of use, such as a building, bridge trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, swimming pool, shelters, piers, wharves, bin, fence, sign, gasoline pumps, recreational courts, or the like.

STRUCTURE, NONCONFORMING: A structure lawfully existing at the effective date of this by-law, or any subsequent amendments thereto, which does not conform to all applicable regulations of this by-law for the district in which it is located.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, which either increases the building area or size or the original structure by ten percent (10%) or more, or the cost of which equals or exceeds ten percent (10%) of the assessed value of the original structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

TELECOMMUNICATION FACILITY: Towers and/or antennae and accessory structures and equipment used in receiving or transmitting telecommunications or radio signals from a mobile communication source and transmitting those signals to another wireless site, and other communication source or receiver or to a central switching computer which connects the mobile unit with land-based telephone lines.

TELECOMMUNICATION TOWER: The structure designed to support equipment and antennae used to transmit and/or receive telecommunications or radio signals. Examples of such structures include freestanding towers, guy towers, monopoles and lattice towers.

TEMPORARY OCCUPANCY PERMIT: See **PERMIT, TEMPORARY OCCUPANCY.**

TOURIST HOME/BED AND BREAKFAST: An owner-occupied single-family home containing rooming units for transient occupancy for compensation, (without individual kitchen facilities and with an individual or shared bath/toilet facility, with at least one toilet, one bath/shower and one wash basin, separate from those required for the single-family dwelling), which share a common entrance for the single-family dwelling. The use of that portion of the dwelling devoted to transient occupancy shall be secondary to the use of the dwelling as a single-family residence and shall not change the character thereof. Breakfast may be the only meal served.

TOWN HOUSE: A row, attached side-to-side (not on top of each other), of at least four (4) and not more than eight (8) dwelling units. Each unit in the row may be owned by a separate owner.

TRADESMAN: Builder, carpenter, electrician, painter, plumber, tree surgeon, landscape gardener or similar building trade occupation.

TRUCKING TERMINAL: Business which services or repairs commercial trucks which are not owned by the business.

UNREGISTERED MOTOR VEHICLE: Any motor vehicle required to be registered by law of the Commonwealth of Massachusetts for operation on public ways, not so registered.

USE: The purpose for which a structure or lot is arranged, designed, or intended to be used, occupied or maintained.

USE, ACCESSORY: A use which is customarily incidental, subordinate to, and supporting of the principal use of a lot or structure and is located on the same parcel or contiguous parcels as the principal structure or use. A food service establishment commensurate with the activity shall be considered an accessory use to a permitted outdoor recreational use; for the purposes of this definition, a restaurant or banquet facility associated with or in connection with an outdoor recreational golf facility shall be deemed an accessory use (Amended ATM, May 15, 2001, Article 29).

USE, MIXED: Two or more Principal Uses occupying the same structure or lot, where more than one Principal Use is permitted on the lot.

USE, NONCONFORMING: SEE PRE-EXISTING NON-CONFORMING USE:

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

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

VARIANCE: Such departure from the terms of this by-law as the Board of Appeals, upon appeal in specific cases, is empowered to authorize under the terms of **Article V**.

VETERINARY HOSPITAL: See **HOSPITAL, VETERINARY:**

WATERSHED: Lands lying adjacent to watercourses and surface water bodies, which create the catchment or drainage areas of such water.

WETLANDS: includes, but not limited to, wet meadow, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for a significant part of the year; emergent and submergent plant communities in inland water; that portion of any bank which touches any inland waters; and the land, including submerged land, which consists of any soil types designated as, but not limited to, very poorly drained as identified by the National Cooperative Soils Survey, as may be amended from time to time, of the Soil Conservation Service of the United States Department of Agriculture, of the Massachusetts Wetlands Protection Act and any local wetlands by-law.

YARD: A portion of a lot located within a required setback area which must remain unobstructed artificially from the ground to the sky except as may be allowed by specific provisions of this by-law.

YARD, FRONT: The portion of a lot lying between the front line and the principal structure on said lot.

YARD, REAR: The portion of a lot lying between the rear line and the rear line of the principal structure on said lot.

YARD, SIDE: The portion of a lot lying between a sideline and the corresponding sideline of the principal structure on the lot.

Article III, Establishment of Districts.

§ 171-6. Division into Districts.

The Town of Palmer, Massachusetts, is hereby divided into Zoning Districts to be designated as follows:

<u>Full Name</u>	<u>Short Name</u>	<u>Class</u>
Rural Residence	RR	Residential "R" District
Suburban Residence	SR	Residential "R" District
In Town Residence	TR	Residential "R" District"
Village Center District I	VCI	Village "V" District
Village Center District II	VCII	Village "V" District
Village Center District III	VCIII	Village "V" District

Village Center District IV	VCIV	Village "V" District
General Business	GB	Business "B" District
Highway Business	HB	Business "B" District
Neighborhood Business	NB	Business "B" District
General Industry A	IA	Industrial "I" District
General Industry B	IB	Industrial "I" District
Urban Renewal Industrial Park	URIP	Industrial "I" District
Water Supply Protection	WSP	Overlay "O" District
Floodplain	F	Overlay "O" District

Districts may be grouped by "Class" and may be referred to herein by the class name or by the abbreviations "R Districts", "V Districts", "B Districts", "I Districts", or "O Districts".

§ 171-7. Special Flood Plain District.

The Flood Plain District is established as an overlay district to all other districts. The general boundaries of the Flood Plain District are shown on the Town of Palmer Flood Insurance Rate Map (FIRM), dated November 4, 1981, as Zones A, A1-30 to indicate the one-hundred-year floodplain. The exact boundaries of the district are defined by the one-hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the Flood Insurance Study, dated November 4, 1981. The floodway boundaries are delineated on the Town of Palmer Flood Boundary-Floodway Map (FBFM), dated November 4, 1981, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two (2) maps, as well as the accompanying study, are incorporated herein by reference and are on file with the Planning Board.

§ 171-8. Superimposed Overlay Zoning District.

A Water Supply Protection District and Flood Plain District are established as an overlay and are considered to be superimposed over the other districts shown on the Zoning Map, as recognition of the special conditions which exist in such areas. See Floodplain District – **Article XII** and Water Supply Protection District – **Article XIV** for applicable regulations.

§ 171-9. Zoning Map.

The location and boundaries of the Zoning Districts are hereby established as shown on a map titled, "Zoning Map of the Town of Palmer, Massachusetts", and which is hereby declared to be a part of this ordinance. The official copy of the Zoning Map shall be the map which is located in the Office of the Building Inspector, which copy shall be identified as authentic, attested by the Town Clerk and the imprinted seal of the Town under the following words: "This is to certify that this is the official copy of the Zoning Map of the Town of Palmer, Massachusetts – Article III § 171-9, which was adopted by the Town Council." In addition, this copy of the map shall carry a statement, attested by the Town Clerk, indicating the fact that all adopted amendments are incorporated therein, as well as a history of all such amendments.

§ 171-10. Changes to Map.

Any change in the location of boundaries of a Zoning District hereafter made through the amendments of this ordinance shall be indicated by the alteration of such map, such changes to be dated and authenticated as prescribed in § 171-9. The map thus altered is declared to be part of such map, and the

map thus altered is declared to be part of the ordinance thus amended. The Planning Board shall be responsible for making the approved changes to the Zoning Map.

§ 171-11. Boundaries of Districts.

Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Map, the following rules apply:

- A. Where a boundary is indicated as a street, alley, railroad, watercourse or other body of water, it shall be construed to be the centerline or middle thereof, or where such boundary approximates a Town boundary, then to the limits of the Town boundary.
- B. Where a boundary is indicated as following approximately or parallel to a street, railroad, watercourse, or other body of water, it shall be construed to be parallel thereto and at such distance therefrom as shown on the Zoning Map. If no dimension is given, such distance shall be determined by the use of the scale shown on the Zoning Map.
- C. Where a dimensioned boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line.
- D. Where a zoning boundary is indicated as intersecting the centerline of a street, railroad, watercourse or other water body, and unless it is otherwise indicated, it shall be construed to intersect at right angles to said centerline or in the case of a curved centerline, at right angles to the tangent to the curve at the point of intersection.
- E. The Flood Plain and Water Supply Protection Districts are superimposed over any other districts established by this ordinance. The rules for these superimposed (overlay) districts shall be in addition to, rather than in place of, the rules for such underlying other districts. The boundaries of these districts are shown on the Aquifer Protection District Map, Palmer, Massachusetts and the Town of Palmer Flood Insurance Rate Map.
- F. Where a question arises and no dimensions or official lot lines of record are shown, then the district boundaries shall be determined by the Zoning Enforcement Officer.

Article IV. Interpretation and Application

§ 171-12. Interpretation.

The provisions of this ordinance, and all subsequent amendments thereto, shall be interpreted to be the minimum requirements adopted for the promotion of the health, safety, morals, or the general welfare of the inhabitants of the Town of Palmer, Massachusetts. The provisions of this ordinance are not intended to repeal, amend, abrogate, annul, or in any way impair or interfere with any lawfully adopted ordinance, covenants, regulations, or rules. Whenever the regulations made under the authority hereof differ from those prescribed by any statute, ordinance, or other regulations, that provisions which imposes the greater restriction or the higher standard shall govern.

§ 171-13. Application.

Except as herein provided, the provisions of this ordinance shall apply to the erection, construction, reconstruction, alteration, or use of buildings, structures, or use of land. Except as herein provided, any existing conforming use, structure, or lot shall not by any action become nonconforming and any existing nonconforming use, structure, or lot shall not become further nonconforming.

§ 171-14. Existing Buildings and Land.

This ordinance shall not apply to existing buildings or structures, nor to the existing use of any building or structure or of land, to the extent to which it is legally used at the time of adoption of this by-law, but it shall apply to any change of use thereof and to any alteration of a building or structure when the same would amount to reconstruction, extension or structural change, and to any alteration of a building or structure to provide for its use for a purpose or in a manner substantially different from the use to which it was put before alteration, or for its use for the same purpose to a substantially greater extent.

§ 171-15. Reserved.

(Amended ATM – June 16, 2003 – Article 11.)

§ 171-16. Reserved.

Article V. Administration and Enforcement

§ 171-17. Building Inspector.

It shall be the duty of the Building Inspector who is also the Zoning Enforcement Officer (ZEO) to administer and enforce the provisions of this ordinance.

§ 171-18. Permit Required.

Any building, sign or structure to be erected, altered or changed in use shall require a building permit from the Building Inspector. The Building Inspector, who is also the Zoning Enforcement Officer, shall first determine that no town ordinance affecting land, building or structures has been or will be violated. Any application for such a permit shall be accompanied by a plan showing the shape and dimensions of the building, lot or premises to be built upon, including the location and size of all buildings or structures affected.

Any application for a permit shall be submitted, accompanied by such information as may be necessary to provide for the execution and enforcement of this ordinance. The Building Inspector shall keep a record of all applications, plans, and permits on file. The Building Inspector shall take action in writing on an application for a permit, either granting the permit or disapproving the application, within thirty (30) days of receipt of application.

§ 171-19. Previously Approved Permits.

The status of previously approved permits shall be as determined by the Zoning Act.

§ 171-20. Filing Copy of Permit with Assessors.

A copy of each building permit shall be filed by the proper authority with the **Board of Assessors** within thirty (30) days.

§ 171-21. Replacement of Destroyed Buildings.

Any building existing at the time of adoption of this chapter which is destroyed by fire, explosion, the act of public enemy or act of God may be replaced on its lot, regardless of lot size, provided that said new building is equal to or exceeds the fair market value of the original building at the time of the casualty. Said replacement of building must be under construction within one (1) year from the date of casualty.

§ 171-22. Certificate of Use and Occupancy Required.

It shall be unlawful to use or occupy any structure or lot thereafter erected or altered unless the Building Inspector has issued a Certificate of Use and Occupancy and has specified thereon, the use to which the structure or lot may be put. A record of all certificates shall be kept on file in the office of the Building Inspector. Buildings accessory to dwellings when completed at the same time shall not require a separate certificate of occupancy. Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building, pending its completion. No temporary certificate shall be issued prior to its completion if the building fails to meet the requirements of applicable building ordinances and state laws or this ordinance to such a degree as to render it unsafe for the occupancy proposed. In situations where, in the opinion of the Building Inspector, a single structure or group of related structures may not be issued a certificate of occupancy because not all of the spaces within the structure(s) are yet completed, he may issue a single certificate of occupancy which specifies certain areas as not being included. Such areas will be required to have a separate certificate of occupancy prior to their use and occupancy.

§ 171-23. Permit and Certificate Fees.

Fees shall be established by the Town Manager, but shall exempt municipal buildings from the requirements for payment of fees.

§ 171-24. Permit Time Limits.

Any work for which any permit has been issued by the Building Inspector shall be actively prosecuted within six (6) months and completed within twelve (12) months of the date of issuance of the permit. For reasonable cause, the Building Inspector may grant one or more (but not more than three (3) extensions of time for additional periods not exceeding ninety (90) days each for both actively prosecuting the work and for completing the work. Any project not completed within the applicable time limits shall be in violation of this by-law.

A Special Permit granted under the provisions of § 171-28 shall lapse within twelve (12) months (including such time required to pursue or await the determination of an appeal) from the grant thereof if a substantial use thereof has not sooner commenced except for good cause, or if, in the case of a permit for construction, construction has not begun by such date except for good cause.

§ 171-25. Violations.

The Building Inspector shall serve a notice of VIOLATION and ORDER to any owner or person responsible for the erection, construction, reconstruction, completion, conversion, or alteration of a structure or change in use, increase in intensity of use or extension or displacement of use of any structure or lot in violation of a permit or certificate issued under the provisions of this ordinance, or in violation of any provision of this ordinance, and such order shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the Building Inspector. Any owner, who having been served with a notice, and who ceases any work or other activity, or who fails to complete the structure, shall not leave any structure or lot in such conditions as to be a hazard or menace to the public safety, health, morals or general welfare.

If the Building Inspector is requested in writing to enforce the ordinance against any person allegedly in violation of the same and declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

§ 171-26. Prosecution of Violation.

If the notice of VIOLATION and ORDER is not complied with promptly, the Building Inspector, upon written request to the Town Counsel, shall have available the services of the Town Counsel in instituting the appropriate action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation. If the Building Inspector shall refuse or fail to so request the services of the Town Counsel, the Town Manager may require him to do so. Delay by the Building Inspector in instituting said proceedings shall not be imputed to the Town of Palmer. Penalties for violations may upon conviction, be affixed in an amount not to exceed one hundred dollars (\$100.00) for each offense. Each day or portion of a day that any violation is allowed to continue shall constitute a separate offense.

§ 171-27. Zoning Board of Appeals, Variances, Appeals and Findings. (Amended ATM, May 14, 2001, Article 29.)

A. Membership. There shall be a Zoning Board of Appeals of five (5) members and two (2) associate members, appointed as provided in Chapter 40A of the Massachusetts General Laws.

B. Powers. The Board of Appeals shall have the following powers:

- (1) To hear and decide appeals, as provided in Chapter 40A of the Massachusetts General Laws.
- (2) To hear and decide applications for special permits upon which the board is empowered to act under said ordinances or bylaws.
- (3) To hear and decide petitions for variances set forth in section of Chapter 40A.
- (4) To hear and decide appeals from decisions of a zoning administrator, if any, in accordance with Chapter 40A, § 13.
- (5) To hear and decide applications for Findings upon which the Board is
- (6) Empowered to act under said ordinance or by-laws (Added ATM, May 14, 2001, Article 29.)

C. Variances and Appeals. The Zoning Board of Appeals shall hear applications for variances and appeals subject to the provisions of Chapter 40A of the Massachusetts General Laws.

D. Time Limitations. No appeal or petition for a variance from the terms of this ordinance with respect to a particular parcel of land or the building thereon, and no application for special permit which has been unfavorably acted upon shall be again considered within two (2) years after the date of such unfavorable action, except as provided in Chapter 40A of the Massachusetts General Laws.

§ 171-28. Special Permits.

Certain uses, structures, or conditions are designated within the Table of Use Regulations as requiring a special permit. Such permit shall be granted only after application for a hearing by the special permit granting authority and subject to the provisions of Chapter 40A of the Massachusetts General Laws and this ordinance. The Special Permit Granting Authority responsible for hearing a particular proposal shall be that board or other entity designated by the coding in the Table of Use Regulations. (Ed. note: these designations are given at the beginning of **Article VII**. Use Regulations) In situations where there is no specific board indicated as having the authority to issue a special permit, the Special Permit Granting Authority shall be the Planning Board.

A. Filing:

- (1) Application for a special permit shall be made to the Town Clerk and Planning Board Office or other appropriate Office as indicated in this Chapter on forms provided for that purpose,

accompanied by the required fee. Specific rules governing the application and fee shall be adopted by each Special Permit Granting Authority along with its rules of procedure and shall be applicable to those special permits which are under its jurisdiction. When the application has been received in a completed form as defined by said rules, a copy shall be forwarded to the Town Clerk. The stamp of the Town Clerk shall designate the date of filing. Copies shall also be delivered to the Special Permit Granting Authority, and to such other departments and boards as may be determined in the rules of the special permit granting authority.

B. Hearing, Notice and Decision.

(1) The Planning Board shall hold a public hearing within sixty five (65) days after the filing of an application with the Special Permit Granting Authority, a copy of which shall be given to the Town Clerk by the applicant.

(2) The Planning Board shall require notice be given by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the hearing, and by posting such notice in a conspicuous place in Town Hall.

(3) Notice shall be sent by mail, postage prepaid, to the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line as they appear on the most recent tax list including those in another town, and the Planning Boards of all abutting towns.

(4) The Special Permit Granting Authority shall act within ninety (90) days (or any agreed upon extended time) following the public hearing. Failure to take action upon application within the ninety (90) days or extended time shall be deemed approval of the special permit.

(5) Upon granting of a Site Plan Approval a copy shall be issued to the owner or applicant if other than the owner, of the decision. No special permit shall take effect until a copy of the decision has been certified by the Town Clerk stating that twenty (20) days have elapsed and no appeal has been filed, or if such appeal has been filed that it has been dismissed or denied and until it is recorded in the Registry of Deeds wherein the land is located.

(6) (Amended ATM – June 16, 2003 – Article 11 (item 6 was deleted))

(7) All Special Permits are terminable by the SPGA for violation of any conditions upon which it is granted or upon violations of this bylaw after hearing by the SPGA with notice to all interested parties.

C. Standards for Reviewing:

(1) Before granting a special permit, the Special Permit Granting Authority, with regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following general conditions to be fulfilled:

- (a) The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this ordinance.
- (b) The requested use will be harmonious with the appropriate and orderly development of the zoning district in which it is proposed to be located and will be harmonious with the visual character of the neighborhood in which it is proposed.
- (c) The requested use will not create undue traffic congestion or unduly impair pedestrian safety.
- (d) The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use

in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.

- (e) Any special regulations for the use as set forth in **Article XV** – Special Permit and that there will be protection of environmental features on the site and in adjacent areas. Exceptions are fulfilled.
- (f) The requested use will not unduly impair the integrity or character of the district or adjoining zones, nor be detrimental to the health, morals, aesthetic qualities of the adjacent area and the neighborhood, or general welfare. The use shall be in harmony with the general purpose and intent of the ordinance.
- (g) The suggested use shall not significantly deteriorate any natural resource or natural resource area within the Town.
- (h) The application and proposed project shall employ adequate methods to protect adjacent areas from detrimental or offensive uses on the site by provision of adequate surface water drainage; buffers against light, sight, sound, dust and vibration; and preservation of light and air (Amended ATM, May 14, 2001, Article 29).
- (i) The application and proposed project shall ensure

(2) The Special Permit Granting Authority shall also impose, in addition to any applicable conditions specified in this ordinance, such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this ordinance, including, but not limited to, the following: front, side or rear yards greater than the minimum required by this ordinance; screening buffers or planting strips, fences, or walls, as specified by the Special Permit Granting Authority; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; traffic features in accordance with the regulations of loading or other special features beyond the minimum required by this ordinance. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the Special Permit Granting Authority.

D. Adult Uses:

- (1) In addition to other requirements and procedures relating to the application for, or the issuance of, special permits, as set forth in this Chapter or in the General Laws of Chapter 40A, § 9 and 9A, the following conditions apply to special permit for adult retail businesses adult use business and adult theatres:
 - (a) No adult retail business, adult use business or adult theatre shall receive a permit unless it is located at least one thousand (1,000) feet from any district designated under this ordinance for residential use and one thousand (1,000) feet from any existing residential use whether such use exists by special permit or as a pre-existing non-conforming use, or one thousand (1,000) feet from any primary or secondary school, public or private, library, park, playground, recreational area or church.
 - (b) No adult retail business, adult use business or adult theatre shall receive a permit unless it is located at least one thousand (1,000) feet from any other adult retail business or adult theatre.
 - (c) The Special Permit Granting Authority shall impose conditions on any permit granted for an adult retail business or adult theatre to protect minors and to further the

purposes and intent of the Zoning ordinance. Among the restrictions it shall consider shall be conditions:

- [1] prohibiting the dissemination of sexually explicit materials to minors at the locus;
- [2] requiring the applicant or owner of the premises to display sexually explicit materials or sexually explicit paraphernalia in such a way as to prevent minors from viewing them;
- [3] conditioning the continued validity of the permit on compliance with its conditions and requiring its revocation after hearing with notice to interested parties if the grantee violates the conditions of the permit;
- [4] expressly granting the permit for personal use of the applicant only rather than as a grant to the locus; and
- [5] limiting the duration of the permit and the operating hours of the establishment.

§ 171-29. Site Plan Review/Approval Process.

A. Purpose

(1) The purpose of this section is to identify which projects require a site plan review and sets objective criteria and procedures for the review of such projects that will have significant impacts on the Town. Site plan review also allows the town to ensure compliance with the goals and objectives of the Town, and the provisions of the Zoning by-law, to minimize adverse impacts of such development, and to promote development which is harmonious with surrounding areas; in particular to assure proper drainage, safe access, adequate parking and loading spaces, public convenience and safety and adequate consideration of abutting land owners.

B. When Required

(1) Site plan approval is required for all uses of land or buildings other than single or two family dwellings. This requirement applies to all new construction other than single or two family homes in all zoning districts. It also applies to any expansion of an existing use and to any change of use of an existing building, provided however, that the expansion or change of use will result in or is contemplated to result in one or more of the following:

- (a) An increase of floor area of twenty five (25) percent or more;
- (b) An increase in motor vehicle traffic at or to the site of twenty five (25) percent or more;
- (c) An increase of parking spaces at the site of twenty-five (25) percent or more;
- (d) An increase in the number of tenants at the site of twenty-five (25) percent or more;
- (e) An increase in the number of employees employed at the site of twenty-five (25) percent or more.

(2) The Zoning Enforcement Officer shall have the authority to waive the necessity for Planning Board approval for changes in use and for structural changes to existing buildings, as well as to new construction of a minor nature such as accessory buildings if he deems the change to be insignificant in that the change or addition will not have a substantial impact on the site or surrounding area. The criteria listed above in paragraph (1) shall be used as a guide only in making this determination. This waiver is subject, however, to ratification by a vote of the Planning Board at its next regular meeting. Notwithstanding a grant of a waiver as provided for

herein, no building permit nor any occupancy permit shall be issued until ratification by the Planning Board. Should the Planning Board fail to ratify the waiver, full site plan review shall be required. (Amended – Special Town Meeting – June 24, 2002 – Article 2.)

(3) In such cases where a site plan review is required, the Special Permit and the Site Plan Review shall be conducted as a single administrative review process, with the Special Permit Granting Authority casting a single vote at its conclusion. The SPGA shall adopt regulations for the execution of its duties under this Article.

C. Site Plan Objectives/Review/Approval Criteria:

(1) In reviewing a site plan application the Planning Board shall take into consideration the health, safety and welfare of the public in general and the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the following general objectives:

- (a) That the subject and adjoining premises are protected against serious detriment by provision for the safe carrying and discharge of surface water drainage, sound and sight buffers, and that the development of the site will preserve sensitive environmental features such as steep slopes, wetlands and large rock outcroppings and will attempt to preserve public scenic views or historically significant features as well as preservation of light and air;
- (b) That there are provisions for convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic, access by emergency vehicles, and to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly;
- (c) That all proposed pedestrian access ways do not create traffic hazards and are: adequate, but not excessive in number; adequate in width, grade, alignment, and visibility; adequate distance from street corners and other access ways; and are adequately designed for other safety considerations;
- (d) That there is the provision of an adequate amount of, and safe arrangement of off-street parking and loading spaces in relation to the proposed uses of the premises to prevent on-street and off-street traffic congestion;
- (e) That there is a relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and will be in harmony with the surrounding neighborhood; and that there is compliance with other requirements of the ordinance; and that the general landscaping of the site complies with the purpose and intent of this ordinance; that existing trees are preserved to the maximum extent possible; that parking, refuse and storage areas are suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way;
- (f) That lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation; that the glare from the installation of outdoor lights and illuminated signs is properly shielded from the view of adjacent property and public rights-of-way;
- (g) That all utility systems are suitably located, adequately designed and properly installed to serve the proposed uses, and to protect the property from adverse pollution;

- (h) Mitigation of adverse impacts on the Town's resources including the effect on the water supply and distribution system, sewage collection and treatment systems, fire protection, and streets.
 - (i) General conformance with the intent of the ordinance as it pertains to the zoning district. (Amended ATM, May 14, 2001, Article 29)
- (2) The Planning Board may require such appropriate conditions, limitations, and safeguards which it feels are necessary to assure the project meets the criteria of a-i above.

D. Procedures.

- (1) Application for Site Plan Approval shall be made to the Planning Board in a form prescribed by the Board and shall be accompanied by four (4) sets of plans, building elevations, and any other necessary information to show the detail of the proposed use of land or buildings.
- (2) All applications shall include plans of the property prepared by a land surveyor registered in the Commonwealth of Massachusetts.
- (3) All plans shall be prepared, signed and sealed by a Massachusetts registered engineer, architect or landscape architect, whichever is appropriate.
- (4) All plans shall contain the following information:
 - (a) General Information:
 - [1] Name and address of applicant and owner of record as listed on the Town's tax rolls. If the applicant is not the owner of record, the latter shall also sign the application;
 - [2] Date, north arrow, and numerical and graphical scale on map;
 - [3] A written description of the proposed use or uses;
 - [4] A table or chart indicating the proposed number or amount and types of uses, lot area, lot width, yards, building height, lot coverage, floor area, parking spaces, landscaping and open spaces as they are required.
 - (b) Location Map:
 - [1] An accurate scale map at a scale of 1" = 1,000' shall be submitted showing the subject property and all property and streets within one thousand (1000) feet.
 - [2] Location, width and purpose of all existing and proposed easements and rights-of-way on the property.
 - (c) Buildings and Uses:
 - [1] Location, dimensions, area, height and setbacks of all existing and proposed buildings, signs, fences, and walls.
 - [2] Location of all existing and proposed uses and facilities such as swimming pools, lighting, tanks, refuse containers, etc.
 - (d) Parking, Loading and Circulation:
 - [1] Location, arrangement and dimensions of automobile parking spaces, aisles, vehicular drives, fire lanes, entrances, exits and ramps. (Amended ATM – June 16, 2003 – Article 11)
 - [2] Location, arrangement and dimensions of loading and unloading areas.

[3] Location and dimensions of the pedestrian walkways, entrances and exits.

[4] Estimated peak hour traffic volumes generated by the proposed use in relation to existing volumes and projected future conditions.

(e) Signs and Lighting:

[1] Location, size, height, orientation and design of all signs.

[2] Location, size, height, orientation and design of any outdoor lighting.

(f) Utilities:

[1] Location and design of all existing and proposed sanitary sewer, storm drainage, water supply facilities and refuse collection areas as well as other underground and above ground utilities. All utilities shall be placed underground unless the applicant can substantiate that such underground placement is impractical.

[2] All refuse containers shall be screened from view from the street, and wherever possible shall be located at the rear of the property.

(g) Topographic Map:

[1] The site plan map shall illustrate the existing and proposed conditions of the property including existing and proposed contours at intervals of five feet or at an interval as needed to show detail as required by sound engineering practices, referred to USGS MSL datum, and the location of all existing wooded areas, watercourses, wetlands and other significant features and, where appropriate, the boundary of the flood hazard area, water supply protection area or other overlay district areas.

(h) Landscaping Plan:

[1] The landscaping plan shall illustrate the existing and proposed landscape development of the property, including the location, general layout, type and size of buffer or landscape area, plant material, fencing, screening devices, decorative paving or other materials proposed.

(i) Other Information:

[1] Other information as may be necessary to determine compliance with the provisions of the Zoning ordinance.

[2] Any hazardous materials and wastes associated with the proposed use as listed by the US Environmental Protection Agency.

[3] All abutters shall be noted on the plan.

(5) Upon request, the Planning Board may, at its discretion, waive the submission by the applicant of any of the required information. All waivers must be requested in writing at the time of application; however, waivers will not be decided until the Public Hearing. If the waiver is not granted then all parties will agree to continue the hearing to allow sufficient time for the applicant to submit the required information.

E. Hearing, Notice and Decision.

(1) The Planning Board shall hold a public hearing within sixty-five (65) days after the receipt of an application as defined in this chapter. a copy of which shall be given to the Town Clerk by the applicant.

(2) The Planning Board shall require notice be given by publication in a newspaper of general circulation in the town once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the hearing, and by posting such notice in a conspicuous place in Town Hall.

(3) Notice shall be sent by mail, postage prepaid, to the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line as they appear on the most recent tax list including those in another town, the Planning Boards of all abutting towns.

(4) The Planning Board shall act within ninety (90) days (or any agreed upon extended time) following the public hearing. Failure to take action upon application within the ninety (90) days or extended time shall be deemed approval of the site plan.

(5) Upon granting of a Site Plan Approval a copy shall be issued to the owner or applicant if other than the owner, of the decision. No Site Plan Approval shall take effect until a copy of the decision has been certified by the Town Clerk stating that twenty (20) days have elapsed and no appeal has been filed, or if such appeal has been filed that it has been dismissed or denied, is recorded in the Registry of Deeds wherein the land is located.

§ 171-30. Reserved.

§ 171-31. Appeal Periods.

No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Hampden County Registry of Deeds.

No work shall commence including excavating or earth removal and on-site grading, with regard to a specific project for which a special permit or variance has been granted, until all applicable appeal periods have expired.

§ 171-32. Extensions, Modifications or Renewals.

Any extensions, modifications or renewals of a Special Permit or Variance shall follow the same statutory procedures as are required for the original granting of a Special Permit or Variance.

§ 171-33. Duration.

A special permit or site plan approval granted by the Special Permit Granting Authority shall lapse if a substantial use thereof has not commenced within one year, or in the case of construction, if construction has not begun. Exception may be made for good cause by the Special Permit Granting Authority.

Article VI. Dimensional and Density Regulations

§ 171-34. Applicability of Dimensional and Density Regulations.

The regulations for each district pertaining to minimum lot area, minimum lot width, minimum lot depth, minimum front yard depth, minimum side yard width, minimum rear yard depth, maximum

height of buildings, and maximum building area be as specified in this Article and as set forth in the Table of Dimensional and Density Regulations, and subject to the further provisions of this ordinance.

Section 171-35. Table of Dimensional and Density Regulations.

NOTE: The following table of Dimensional and Density Regulations shall apply to all development within the Town of Palmer, except as these standards may be varied elsewhere in this ordinance (Added ATM, May 14, 2001, Article 29).

Residential Uses:	RR	SR	TR
Single Family Home <u>With</u> Public Water & Sewer			
Minimum Lot Area (Square Feet)	60,000	30,000	20,000
Minimum Lot Frontage & Minimum Lot Width (Feet)	150'	150'	100'
Minimum Lot Depth (Feet)	200'	200'	200'
Minimum Front Yard (Feet)	50'	50'	30'
Minimum Side Yard (Feet)	30'	30'	15'
Minimum Rear Yard (Feet)	30'	30'	15'
Maximum Building Coverage (Percentage)	50%	50%	50%
Maximum Building Height (Feet)	35'	35'	35'
Single Family Home <u>Without</u> Public Water & Sewer			
Minimum Lot Area (Square Feet)	60,000	30,000	30,000
Minimum Lot Frontage & Minimum Lot Width (Feet)	150'	150'	150'
Minimum Lot Depth (Feet)	200'	200'	200'
Minimum Front Yard (Feet)	50'	50'	30'
Minimum Side Yard (Feet)	30'	30'	15'
Minimum Rear Yard (Feet)	30'	30'	15'
Maximum Building Coverage (Percentage)	50%	50%	50%
Maximum Building Height (Feet)	35'	35'	35'
Two Family Home			
Minimum Lot Area (Square Feet)	Not Permitted	Not Permitted	30,000
Minimum Lot Frontage & Minimum Lot Width (Feet)	NA	NA	150'
Residential Uses:	RR	SR	TR
Minimum Lot Depth (Feet)	NA	NA	200'
Minimum Front Yard (Feet)	NA	NA	50'
Minimum Side Yard (Feet)	NA	NA	30'
Minimum Rear Yard (Feet)	NA	NA	30'

Maximum Building Coverage (Percentage)	NA	NA	50%
Maximum Building Height (Feet)	NA	NA	35'
Three or Four Family Home			
Minimum Lot Area (Square Feet)	Not Permitted	Not Permitted	60,000
Minimum Lot Frontage & Minimum Lot Width (Feet)	NA	NA	200'
Minimum Lot Depth (Feet)	NA	NA	300'
Minimum Front Yard (Feet)	NA	NA	75'
Minimum Side Yard (Feet)	NA	NA	50'
Minimum Rear Yard (Feet)	NA	NA	75'
Maximum Building Coverage (Percentage)	NA	NA	50%
Maximum Building Height (Feet)	NA	NA	35'
Townhouse or Condominium Or multi-family units (*Allowed in the RR District only for elderly housing – Amended ATM, May 14, 2001, Article 29).			
Minimum Lot Area (Square Feet)	20,000 per unit or family.	20,000 per unit or family	20,000 per unit or family
Minimum Lot Frontage & Minimum Lot Width (Feet)	400'	400	400
Minimum Lot Depth (Feet)	500'	500'	500'
Minimum Front Yard (Feet)	50'	50'	50'
Minimum Side Yard (Feet)	75'	75'	75'
Minimum Rear Yard (Feet)	75'	75'	75'
Maximum Building Coverage (Percentage)	50%	50%	50%
Residential Uses:	RR	SR	TR
Maximum Building Height (Feet)	NA	35'	35'
Residential Accessory Building			
Attached:			
Minimum Front Yard	50'	50'	30'
Minimum Side Yard	30'	30'	15'
Minimum Rear Yard	30'	30'	15'
Detached:			
Minimum Front Yard	50'	50'	30'
Minimum Side Yard	10'	10'	10'
Minimum Rear Yard	10'	10'	10'

Swimming Pools			
Minimum Front Yard	50'	50'	30'
Minimum Side Yard	15'	15'	15'
Minimum Rear Yard	15'	15'	15'
INDUSTRIAL DISTRICTS	URIP	IA	IB
MAIN BUILDING & ACCESSORY STRUCTURES			
Minimum Lot Area (Square Feet)	None	43,560	43,560
Minimum Lot Frontage & Minimum Lot Width (Feet)	None	200	None
Minimum Lot Depth (Feet)	None	200	None
Minimum Front Yard (Feet)	50'	50'	50'
Minimum Side Yard (Feet) *None if abutting railroad tracks	50'*	50'*	50'*
Minimum Rear Yard (Feet) *None if abutting railroad tracks	50'*	50'*	50'*
Maximum Building Coverage (Percentage)	40%	50%	50%
Maximum Building Height (Feet)	40'	50'	50'
BUSINESS DISTRICTS	HB	GB	NB*
MAIN BUILDING & ACCESSORY STRUCTURES			
Minimum Lot Area (Square Feet)	40,000	40,000	40,000
Minimum Lot Frontage & Minimum Lot Width (Feet)	200'	200'	200'
Minimum Lot Depth (Feet)	200'	200'	200'
Minimum Front Yard (Feet)	50'	50'	50'
Minimum Side Yard (Feet)	30'	30'	30'
Minimum Rear Yard (Feet)	30'	30'	30'
Maximum Building Coverage (Percentage)	50%	50%	50%
Maximum Building Height (Feet)	50'	50'	50'
VILLAGE CENTER DISTRICTS			
See Village Center Zoning Sheets for Requirements for the VC Districts			

NOTE: NB* Any lot in the NB zone that is being utilized for residential use shall conform to the lot size requirements and setback requirements as specified for the zoning district of the surrounding residential neighborhood (Note added ATM, May 14, 2001, Article 29).

§ 171-36. Reserved.

§ 171-37. Reserved. (Amended ATM – June 16, 2003 – Article 11)

§ 171-38. Screening and Buffers.

For screening and buffer requirements please see **Article XVI** for detailed descriptions of the requirements for each

§ 171-39. Floodway.

No encroachments (including fill), new construction, substantial improvements, or any other development shall be permitted within the regulatory floodway, as designated on the FEMA Map(s), unless certification by a registered professional engineer or architect is provided, demonstrating to the satisfaction of the appropriate town authority that encroachments shall not result in any increase in flood levels during the occurrence of the 100-year flood.

§ 171-40. Accessory Structures.

In residential and business districts, accessory structures shall conform to the provisions set forth in the Table of Dimensional and Density Regulations, § 171-35. (Amended ATM, May 14, 2001, Article 29) They must be located on the lot so as not to violate the minimum front yard, height restrictions.

Any accessory below-ground swimming pool shall be completely enclosed by a fence at least four (4) feet in height, having a self-closing gate with a latch.

In all districts, an accessory structure attached to the principal building shall be considered as an integral part thereof and shall be subject to front, side, and rear yard requirements applicable to the principal building. Where the Building Inspector finds (a) that a lot is to be used for residential purpose; (b) that such lot was created before the date of adoption of this by-law; (c) that such lot contains a principal structure; and (d) that such lot more closely conforms to the lot dimensions of the next less restrictive zone than the one in which it is located, the required setbacks of that zone may be applied in lieu of the setbacks required under Article VI Dimensional and Density Regulations.

§ 171-41. Other General Dimensional and Density Provisions.

In addition to the regulations in this section above, the following regulations shall apply:

- A. Existing residential uses in business or industrial districts shall be subject to the regulations for the particular type of dwelling in the TR district.
- B. Pre-existing nonconforming Residential Uses which are now prohibited in the Zoning District in which they are located shall conform to the provisions of § 171-83 Pre-Existing Non-Conforming Uses, Structures and Lots.
- C. In the case of one-family, two-family, and three-family dwellings, no more than one principal building may be built on any single lot. In all other cases (such as with condominiums or townhouses), more than one principal structure may occupy the same lot, provided that if they aggregate they do not represent a more intensive use of land than would be allowed if all uses were contained within a single structure.
- D. (Amended ATM – June 16, 2003 – Article 11 – item 4 deleted)
- E. Projections into required yards or other required open spaces are permitted subject to the following:
 - (1) Balcony or bay window may project up to two feet into a required yard or other open space and provided it is limited in total length to no more than one-half the length of the building face.
 - (2) Open terrace or steps or stoop, under four feet in height may project into a required yard or open space up to one-half the required setback.

(3) Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, awnings, storm enclosure, or similar architectural features may project not more than three feet into a required yard open space.

(4) Generators, air-conditioner units and like equipment may be located within the set-back provided that such equipment is adequately shielded to comply with noise and other regulations as specified in this ordinance or other regulations and state statutes. (Amended – Special Town Meeting – June 24, 2002 – Article 2)

F. The provisions of this ordinance governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, electronic equipment, elevator shafts, and other necessary appurtenances usually carried above the roof, nor to domes, towers, stacks, or spires, if not used for human occupancy and if not occupying more than twenty (20) percent of the ground floor area of the building; nor to ornamental towers, observation towers, radio broadcasting towers, telecommunication towers (Added ATM, May 14, 2001, Article 29), television and radio antennae and other like structures, which do not occupy more than ten (10) percent of the lot area; nor to public, agricultural or institutional buildings, or buildings or private schools not conducted for profit that are primarily used for school purposes, provided the expected appurtenances are not located within the flight paths of an airport or heliport as defined by FAA regulations, and approved by the FAA, and further provided that no tower or similar structure may be located closer to a property line than the distance equal to its height.

G. The maximum gross floor area for any single business establishment in a NB District shall not exceed three thousand (3,000) square feet.

H. At no street intersection in any district shall any obstruction to vision exceeding three (3) feet in height above the plane established by the intersecting streets be placed or permitted to grow, on any lot within the triangle formed by the lot lines abutting the intersection and a line connecting points on these lot lines at a distance of twenty-five (25) feet from the point of intersection of the lot lines. This restriction shall also apply to the intersection of a street and a driveway in a "B" or "I" District.

I. A fence, hedge, wall, or other structure or vegetation may be maintained on any lot provided that in the front yard area, no such structure or vegetation shall be over three (3) feet in height above the adjacent ground within five (5) feet of the front lot line unless it can be shown that such vegetation will not restrict visibility in such a way as to hinder the safe entry of a vehicle from any driveway to the street.

§ 171-42. Reserved.

§ 171-43. Reserved.

§ 171-44. Dimensional and Density Regulations for Lots Located in More Than One Zoning District.

Where a lot is located in more than one zoning district, the following dimensional and density regulations shall apply:

A. Frontage - The frontage requirement for the district in which a majority of the frontage is located shall apply. In cases where the frontage is of equal length in all districts, then the most restrictive shall apply.

B. Lot Area - The lot area requirement for the district in which a majority of the lot area is located shall apply. In cases where the lot area is of equal area in all districts, then the most restrictive shall apply.

C. All Other Dimensional and Density Regulations - Those dimensional and density regulations required in a particular district shall apply to that portion of the lot, or structure, located in said district.

§ 171-45. Vehicular Egress/Access to a Lot and Common Driveways.

Vehicular egress/access to a lot must be across the front lot line of the lot meeting the minimum frontage requirements, except that in particular instances, the Planning Board may issue a Special Permit permitting vehicular egress/access to a lot over a front lot line having less than the required minimum frontage, or over any side lot line or rear lot line.

A. Common Driveways may be allowed by special permit in accordance with the provisions of § 171-28 and subject to the following:

(1) A common driveway in any "R" District shall serve no more than two lots. The driveway shall lie entirely within the lots being served. In the "I" Districts, or in the "GB" or "HB" Districts, the Planning Board may grant a special permit to allow a common driveway to serve more than two lots when it can be shown that the sharing of a driveway will result in a benefit to the neighborhood due to decreased curb cuts and traffic flow (Amended ATM, May 14, 2001, Article 29).

(2) Frontage along a common driveway shall not constitute frontage. The only area to be counted as frontage is that land which meets the requirements as specified in the definition of frontage in the Zoning Ordinance; furthermore, no common driveway shall be accepted as a public way; nor shall the Town of Palmer under any circumstances be held liable for construction, reconstruction, maintenance, or snow removal on any common driveway.

(3) Under no circumstances shall the Town of Palmer be held liable in the event that emergency vehicles cannot get to their destination because of improper construction or maintenance of a common driveway. It shall be the owner's responsibility to be sure that the driveway is passable for emergency vehicles at all times.

(4) Each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner holds a right-of-way.

B. Driveway Standards:

(1) Alignment and Dimensions

(a) The width of the right of way shall be forty (40) feet.

(b) The minimum width of a common driveway surface shall be eighteen (18) feet.

(c) The common driveway shall have three foot gravel shoulders on each side.

(d) The slope or grade of a common drive shall in no place exceed eight percent (8%) if unpaved; or twelve percent (12%) if paved.

(e) The common drive shall intersect a public way at an angle of not less than eighty (80) degrees.

(f) The minimum curvature of a common driveway shall be sufficient for a fire engine to negotiate, generally no less than a radius of fifty (50) feet.

(g) There shall be a turnaround area at the resident end of the driveway. Such turnaround shall accommodate safe and convenient turning by fire trucks and other emergency vehicles.

(h) The maximum length of a common driveway shall be fifteen hundred (1,500) feet.

- (i) Other standards may be set based on site configurations, including requirements for drainage.
- (j) These standards may be waived when, the Planning Board finds that such action is not inconsistent with the purpose and intent of the Zoning Ordinance.

(2) Construction

- (a) The common driveway shall be constructed of a minimum fifteen inches (15") gravel base with an oil and stone top layer of 1/2" consisting of three successive layers of 3/4" crushed traprock stone, 1/2" crushed traprock stone and 1/4" crushed traprock stone, with a crown sufficient for drainage.
- (b) Drainage shall be adequate to dispose of surface runoff. Culverts shall be installed if deemed necessary by the Planning Board.
- (c) These standards may be waived when, the Planning Board finds that such action is not inconsistent with the purpose and intent of the Zoning Ordinance.

(3) Alignment and Dimensions

- (a) The common driveway, at its intersection with the street, must provide a leveling off area with a slope no greater than 1% for the first twenty (20) feet and a slope no greater than 5% for the next thirty (30) feet.
- (b) Minimum safe sight distance must be provided at the intersection of a common driveway with a street.
- (c) These standards may be waived when the Planning Board finds that such action is not inconsistent with the purpose and intent of the Zoning Ordinance.

(4) Street Numbers and Identification

- (a) Each common driveway shall be assigned one street number; each residence served by the common driveway shall be assigned a letter to use together with the common driveway number for purposes of address and identification. All common driveways shall be clearly marked at the intersection of the driveway and the frontage road by a sign stating the driveway number and house letters, sufficiently readable from the road to serve the purpose of emergency identification. All other house numbering standards of the Town of Palmer shall be adhered to.

§ 171-46. Reserved.

Article VII. Use Regulation

§ 171-47. Applicability of Use Regulations.

Except as provided in this ordinance, no building, structure, or land shall be used except for the purposes permitted in the district as described in this article. Any use not listed shall be construed to be prohibited. Uses permitted by right, by special permit, or by site plan approval provisions of ordinance, shall be subject, in addition to the use regulations contained in the Article, to all of the other provisions of this ordinance.

§ 171-48. Use Regulations.

This ordinance divides the Town into various zoning districts. The purposes of each district and the uses permitted in each district are outlined in the following sections of the ordinance. The Tables of Use

Regulations on the following pages is hereby declared to be a part of this ordinance. In the Tables, the following designations shall apply:

- A. "Y" shall designate uses allowed by right in the district indicated.
- B. "T" shall designate uses allowed in the district indicated, but only with a special permit granted by the Town Manager subject to the provisions of Article V.
- C. "SP" shall designate uses allowed in the district indicated, but only with a special permit from the Planning Board subject to the provisions of Articles V.
- D. "SPA" shall designate uses allowed in the district indicated, but only with site plan approval from the Planning Board subject to the provisions of Article V.
- E. "SP/SPA" shall designate uses allowed in the district indicated, but only with special permit and site plan approval from the Planning Board subject to the provisions of Article V.
- F. "N" shall designate uses not allowed in the district indicated.

§ 171-49. Accessory Uses.

A. Any use which is accessory to a principal use allowed by right shall be allowed only in connection with such allowed principal use. Any use which is accessory to a principal use allowed by special permit, and which is not specifically included in the original special permit, shall be allowed only after issuance of a new special permit. Cessation of a principal use shall require cessation of any accessory use which is not otherwise allowed as a principal use. The Building Inspector shall be responsible for determining what uses are principal, and what uses are accessory.

B. A use, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit, provided the Planning Board finds that the proposed accessory use does not substantially derogate from the public good.

§ 171-50. Temporary Events.

A. A temporary event or use occurring on a parcel or parcels of land located in a zoning district in which such event or use is not permitted, may be permitted by the Town Manager in accordance with the regulations as established by the Town Manager for such events.

Article VIII. Residential Zones

§ 171-51. Residential Zones.

Purpose. The rural residential and suburban residential zones are intended to preserve land and to provide housing opportunities for individual households. The regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood. The regulations preserve the character of neighborhoods by providing three different zones with different densities and development standards. It is intended that these regulations will promote desirable low-density residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. These regulations will also help to preserve open space for wildlife habitat, conservation and passive recreation uses and the remaining prime agricultural lands and forestlands within the town by providing for cluster residential developments. Larger lot sizes in some areas within the town will also aid in the

preservation of natural resources and will also help to establish a sewer avoidance area where lot sizes are such that it will eliminate the necessity of extending sewer lines into these areas. The site development standards allow for flexibility of development while maintaining compatibility within the Town's various neighborhoods. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

The Town Residential Zones (Amended ATM, May 14, 2001, Article 29) are intended to provide opportunities for multi-dwelling housing. The regulations are intended to create and maintain higher density residential neighborhoods. At the same time, they allow for large-scale institutional campuses and other non-residential uses but not to such an extent as to sacrifice the overall residential neighborhood image and character.

The Town Residential Zones (Amended ATM, May 14, 2001, Article 29) are distinguished primarily by density and development standards. The regulations are intended to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the Town's character. At the same time, the standards allow for flexibility for new development. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

§ 171-52. List of the Residential Zones.

The full names and abbreviations of the residential zones are listed below.

Full Name	Abbreviation
Rural Residential/Agricultural	RR
Suburban Residential	SR
Town Residential	TR

(Amended ATM, May 14, 2001, Article 29)

§ 171-53. Other Zoning Regulations.

The regulations in this chapter state the allowed uses and development standards for the base zones. Sites with overlay zones are subject to additional regulations. The Official Zoning Map and Overlay Maps indicate which sites are subject to these additional regulations.

§ 171-54. Use Regulations.

Primary Uses.

A. **Allowed Uses.** Uses allowed in the residential zones are listed in § 171-55, the Table of Use Regulations with a "Y". These uses are allowed if they comply with the standards and other regulations of this by-law. Being listed as an allowed use does not mean that a proposed use will be permitted if the criteria of this section cannot be met. In addition, a use listed is subject to all other requirements of this chapter. Uses that are allowed may also require site plan approval as indicated in § 171-29.

B. **Special Permit Uses.** Uses allowed by special permit only are designated with a "SP". These uses are subject to the special permit criteria as described in this by-law.

C. **Site Plan Approval.** Uses allowed by site plan approval only are designated with a "SPA". These uses are subject to the site plan approval criteria as described in this by-law.

§ 171-55. Table of Use Regulations – Residential Zones.

ZONING DESIGNATION:	RR	SR	TR
Residential Categories			
Single Family Residence	Y	Y	Y
Household Living	Y	Y	Y
Cluster Residential Developments	SP	SP	SP
Tourist Home/ Bed & Breakfast	SP/SPA	SP/SPA	SP/SPA
Accessory Apartments For Family Member	SP/SPA	SP/SPA	SP/SPA
Accessory Apartments For Rental to Non-Family Member	N	SP/SPA	SP/SPA
Elderly Housing Single Family Housing Community (<i>Amended ATM, May 14, 2001, Article 29</i>).	Y	Y	Y
Elderly Housing – Multi-family units, apartments, townhouses and condominiums. (<i>Amended ATM, May 14, 2001, Article 29</i>).	SP/SPA	SP/SPA	SP/SPA
Two Family Dwellings	N	N (amended STM 5-15-00 Article 15)	Y
Town Houses	N	SP/SPA	SP/SPA
Condominiums	N	SP/SPA	SP/SPA
Three Family Home	N	N	SP/SPA
Multi Family Residential Units	N	N	SP/SPA
Lodging Houses	N	SP/SPA	SP/SPA
Commercial Categories			
Home Occupation Uses	SP	SP	SP
Sole Proprietor-No on-site employees or customers	Y	Y	Y
Veterinary Hospital in which all animals are kept inside pens or buildings.	SP/SPA	N	N
Retail Sales And Service	N	N	N
Office	N	N	N
Quick Vehicle Servicing	N	N	N
Vehicle Repair	N	N	N
Commercial Parking	N	N	N
Self-Service Storage	N	N	N
Campground	SP/SPA	N	N
Commercial Outdoor Recreation	SP/SPA	SP/SPA	N

Major Event Entertainment	N	N	N
Industrial Categories			
Manufacturing And Production	N	N	N
Warehouse And Freight Movement	N	N	N

ZONING DESIGNATION	RR	SR	TR
Wholesale Sales	N	N	N
Industrial Service	N	N	N
Railroad Yards	N	N	N
Waste-Related	N	N	N
Institutional Categories			
Basic Utilities	SP	SP	SP
Community Service/ Municipal Uses			
Parks And Open Areas	Y	Y	Y
Municipal Uses	Y	Y	Y
Public or Private School, College or University	Y	Y	Y
Historical Society (may incl. residence of caretaker)	Y	Y	Y
Nursing Home	SP/SPA	SP/SPA	SP/SPA
Assisted Living facility or life care facility	SP/SPA	SP/SPA	SP/SPA
Medical Centers	N	N	N
Religious Institutions	Y	Y	Y
Elder Day Care in the Home	Y	Y	Y
Family Day Care in the Home (including Family Day Care Home Plus and Family Day Care Home Large)	Y	Y	Y
Private Daycare, Nursery Care or Kindergarten	SPA	SPA	SPA
Other Categories			
Agriculture, floriculture, vitaculture, aquaculture, silvaculture	Y	Y	Y
Temporary Greenhouse or stand for retail sale of agricultural products	Y	Y	Y
Non-Commercial forestry and growing of all vegetables	Y	Y	Y
Heliport/Airport	SP/SPA	N	N
Commercial Telecommunications Towers	SP/SPA	SP/SPA	SP/SPA
Earth Removal Operations	SP/SPA	N	N

§ 171-56. Planned Senior Housing Development. (Approved at Annual Town Meeting, Monday, May 6, 2002)

Planned Senior Housing Developments shall be subject to Special Permit pursuant to § 171-28 of the Palmer Zoning Ordinance, and Site Plan Approval pursuant to § 171-29 of the Palmer Zoning Ordinance. In addition to the other criteria set forth in these Sections and the General Laws, these procedures and standards shall apply to all Planned Senior Housing Developments.

A. Purpose. The purpose of the planned senior housing development section is to allow for flexible residential developments intended to serve the fifty-five (55) and older population of our community. These residential developments may include townhouses, condominiums, multi-family units and apartments. The development standards are flexible to help make the housing more affordable by allowing units to be clustered thereby requiring less infrastructure to be constructed. Preservation of open space and conservation of significant natural features will also be required in these types of housing developments. The open space will allow areas for passive recreation uses, community gardens, walking paths, swimming pools, tennis courts and other similar amenities.

B. Use Regulations. The following uses shall be permitted in a Planned Senior Residential Development:

- (1) One family detached dwellings;
- (2) Townhouses;
- (3) Condominiums;
- (4) Multi-family dwellings not to exceed four (4) units per building;
- (5) Any recreational use or community facility associated with the development; including, but not limited to such as tennis courts, swimming pools, gardens; community buildings and clubhouses; and
- (6) Any accessory use as defined in Section 171-5 of this ordinance.

C. Minimum Lot Size Requirements. The dimensional requirements for a Planned Senior Housing Development are as follows:

- (1) The minimum parcel size is ten (10) acres. Land under permanent water bodies shall not be counted towards the minimum lot area. No more than fifty (50) percent of the lot shall be wetlands, encumbered by easements or be unusable due to other conditions.
- (2) The parcel must have a minimum of sixty (60) feet of frontage on a public way as defined in this chapter. Parcels within the Planned Senior Housing Development have no minimum frontage requirement.
- (3) The minimum front setback shall be one hundred (100) feet. Side and rear setbacks shall be seventy-five (75) feet. These setbacks apply only to the periphery of the property. There shall be no setback requirements for the individual structures within the Planned Senior Housing Development, however no two residential structures shall be placed any closer together than ten (10) feet.
- (4) A buffer strip suitable to provide a visual barrier between adjoining properties of at least thirty feet must be maintained along the perimeter of the property. Additional buffering may be required by the Board when deemed necessary to buffer sensitive areas. The Planning Board may modify or waive the buffer requirement where topography, or other circumstances warrant a change. A buffer plan must be submitted as part of the application.

(5) In certain circumstances the Planning Board may grant a special permit to allow a reduction in the side yard setback, but in no instance shall a side setback requirement be reduced to any less than thirty (30) feet. These special permits are discretionary. The Planning Board shall consider the following criteria when considering granting a special permit for a reduction in the side yard setback:

- (a) The applicant must demonstrate through the use of visual tools why the proposed development cannot meet the minimum side yard setback.
- (b) The applicant shall not vary the side setback requirement any more than is necessary to accommodate the stated need for dimensional relief.
- (c) The applicant must demonstrate that there is no reasonable alternative site and building design that would maintain the dimensional requirements of the ordinance.
- (d) The applicant must demonstrate that the intent of the ordinance will met, even with a reduction in the side yard setback.

D. Density Requirements. One dwelling unit will be allowed for every thirty thousand (30,000) square feet in the development.

E. Parking and Circulation Requirements. All Planned Senior Housing Developments shall provide for the following:

- (1) There shall be an adequate, safe and convenient arrangement of pedestrian circulation, roadways, driveways and parking.
- (2) Vehicular access to the Planned Senior Housing Development shall be provided from an existing public way, which in the opinion of the Planning Board is adequate to service the proposed development. As a matter of public safety, an alternate emergency access may be required.
- (3) Roads and walkways within the Planned Senior Housing Development shall be privately owned and maintained and shall be designed in accordance with sound engineering practices and shall be designed with sufficient width, suitable grade and adequate construction to safely provide for the needs of vehicular and pedestrian traffic generated by the development.
- (4) Garages or off-street parking spaces, or a combination thereof, shall be provided for all occupants, employees and visitors, and shall be not less than two spaces per dwelling unit in accordance with § 171-95 of the Palmer Zoning By-Law.

F. Common Open Space Requirements. All Planned Senior Housing Developments shall provide the following:

- (1) All land within the Planned Senior Housing Development which is not covered by buildings, roads, driveways, parking areas of other development, or which is not set aside as private yards, patios or gardens for the residents shall be common open space. The area of the common open space shall equal at least forty (40%) percent of the total area of the development tract. Such land shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation, or agricultural purposes by all the residents of the development.
- (2) Suitable and usable outdoor recreational area or areas shall be provided for the use of the tenants. At least six thousand (6,000) square feet per dwelling unit must be usable open space for active and passive recreation. Such space shall not include wetlands as determined by the Conservation Commission. Usable open space shall be defined to include land for community gardens, hiking/jogging paths, tennis courts, swimming pools, or similar facilities. Structures

or buildings accessory to recreation, conservation or agricultural uses may be erected by shall not exceed two (2) percent coverage of the common open land.

(3) Further subdivision of common open land or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities shall be prohibited. Provision shall be made so that the common open space shall be owned in common and accessible to the owners and residents of all units in the development, or by membership corporation, trust or association whose members are the owners and residents of the units.

G. Community Facility.

(1) Unless waived by the Planning Board, a community room or facility must be established for use by the residents. There shall also be room for meetings and other functions held by the residents.

H. Community Association.

(1) An owners' association shall be established, requiring membership of each lot or unit owner, in the Planned Senior Housing Development. The association shall be responsible for the permanent maintenance of communal water, sewage, recreational and thoroughfare facilities. An association agreement of covenant shall be submitted with the Special Permit application guaranteeing the continuing maintenance of such common utilities, land and facilities, assessing each unit a share of maintenance expenses. Such agreement shall be forwarded to Counsel for his/her comments. In the case of rental units, the property owner shall be responsible for all maintenance of the facility as detailed above.

(2) Such agreements or covenants shall provide that in the event that the association fails to maintain the common facilities in reasonable order and condition in accordance with the agreement, the Town may, after notice to the association and Public Hearing, enter upon such land and maintain it in order to prevent the common land from becoming a public nuisance. The covenants and agreements shall also provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development.

I. Application Contents. All applications for a Planned Senior Housing Development shall include the following:

(1) A completed application form.

(2) A project report narrative explaining the nature of the proposal including work that will be done on the property, the development concept, the number of units, the number of bedrooms per unit, the number of projected occupants, the projected number of average daily trips from the development, the total lot coverage, the total open space, and a description of any other significant site features and site amenities to be provided. The narrative should also detail provisions for sewage disposal and water supply.

(3) A site plan prepared in accordance with the site plan section of this by-law. The plan shall include the layout of all private ways to be constructed within the development. Plans shall also detail the proposed drainage system, complete with drainage calculations and any other information as may be required by the Town of Palmer Regulations Governing the Subdivision of Land.

(4) Information as required by Special Permits, § 171-28 and Site Plan Approval, § 171-29 shall be submitted to allow the Planning Board to determine that the site plan objectives/review and approval criteria detailed in these Sections can be met.

J. Enforcement. In addition to all other enforcement tools available to the Board, the Board shall require the following:

- (1) As a condition of its approval, the Planning Board may establish time limits for any development or phases thereof.
- (2) Before any building permits are issued for buildings in a given phase, the developer may be required to provide the Town with performance security in a form and amount satisfactory to the Planning Board to guarantee the construction of required site improvements.

Article IX. Business Zones

§ 171-57. Business Zones.

Purpose. The business zones are for areas of the Town designated for business and commercial uses. The differences in the zones reflect the diversity of business areas in the Town. The zones are distinguished by the uses allowed and the intensity of development allowed. Some of the zones encourage business areas that are supportive of surrounding residential areas, while other zones allow business areas which have a community or regional market. The regulations promote uses and development which will enhance the economic viability of the specific business district and the town as a whole.

In general, a wide range of uses is allowed in each zone. Limits on the intensity of uses and the development standards promote the desired character for the commercial area. The development standards are designed to allow a large degree of development flexibility within parameters which support the intent of the specific zone. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

§ 171-58. List of Business Zones.

- A. **Neighborhood Business Zone.** The Neighborhood Business (NB) zone is intended for small sites in or near dense residential neighborhoods. This zone encourages the provision of small-scale retail and service uses for nearby residential areas. Some uses which are not retail or service in nature are also allowed so a variety of uses may locate in existing buildings. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas. Parking areas are restricted, since their appearance is generally out of character with the surrounding residential development and the desired orientation of the uses. In certain situations this zone is intended for small commercial sites and areas in or near less dense or developing residential neighborhoods. The emphasis of the zone is on uses which will provide services for the nearby residential areas, and on other uses which are small scale and have little impact. Uses are limited in intensity to promote their local orientation and to limit adverse impacts on nearby residential areas.
- B. **Village District - Mixed Commercial/Residential Zone.** The Village Center District I, II, III and IV provide for Mixed Commercial/Residential uses within one zone. This zone promotes development that combines commercial and housing uses in a single building and enhances older business areas that have a storefront character. This zone allows increased development on busier streets without fostering a strip commercial appearance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the Town. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Other uses are allowed to

provide a variety of uses that may locate in existing buildings. Development will consist primarily of businesses on the ground floor with housing on upper stories. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk, especially at corners. (Please see individual VC Zone information for specific allowable uses development criteria. This section is located in Article X)

- C. **General Business Zone.** The General Business Zone is intended to preserve and enhance older commercial areas that have a storefront character. The zone intends that new development in these areas will be compatible with this desired character. The zone allows a full range of retail, service and business uses with a local and regional market area. The desired character includes areas which are predominantly built-up, with buildings close to and oriented towards the sidewalk especially at corners. Development is intended to be pedestrian-oriented and buildings with a storefront character are encouraged.
- D. **Highway Business Zone.** The Highway Business Zone is intended to allow auto-accommodating commercial development in areas along highways that have already been predominantly built in this manner and in some new highway areas. This zone allows for a range of retail and service businesses with a local or regional market. Due to the size and scope of these businesses they are not in character with the business zones located within the central business areas of the town. These businesses are expected to be auto-accommodating. The zone's development standards will promote attractive development, and more open and pleasant street appearance. It is hoped that the resulting development will be aesthetically pleasing for motorists, pedestrians and the businesses themselves.

§ 171-59. Other Zoning Regulations.

The regulations in this chapter state the allowed uses and the development standards for the base zones. Sites with overlay zones are subject to additional regulations. The Official Zoning Map and Overlay Maps indicate which sites are subject to the additional regulations.

§ 171-60. List of the Business Zones.

The full names and abbreviations of the business zones are listed below.

Full Name	Abbreviation
General Business	GB
Highway Business	HB
Neighborhood Business	NB

§ 171-61. Use Regulations.

A. Primary Uses

(1) **Allowed Uses.** Uses allowed in the business zones are listed in § 171-62, Table of Use Regulations – Business Zones with a "Y". These uses are allowed if they comply with the standards and other regulations of this Chapter. Being listed as an allowed use does not mean that a proposed use will be permitted if the criteria of this section cannot be met. In addition, a use listed is subject to all other requirements of this chapter. Uses that are allowed may also require site plan approval as indicated in § 171-29.

(2) **Special Permit Uses.** Uses allowed by special permit only are designated with a "SP". These uses are subject to the special permit criteria as described in this by-law.

(3) Site Plan Approval. Uses allowed by site plan approval only are designated with a “SPA”. These uses are subject to the site plan approval criteria as described in this by-law.

§ 171-62. Table of Use Regulations – Business Zones.

ZONING DESIGNATION	HB	GB	NB
Mixed Categories			
Single Family Residence	Y	Y	Y
Household Living	Y	Y	Y
Cluster Residential Developments	SP	SP	SP
Tourist Home/ Bed & Breakfast	SP/SPA	SP/SPA	SP/SPA
Accessory Apartments For Family Member	SP/SPA	SP/SPA	SP/SPA
Accessory Apartments For Rental to Non-Family Member	SP/SPA	SP/SPA	SP/SPA
Two Family Dwellings	Y	Y	Y
Multi Family Dwellings	SP/SPA	SP/SPA	N
Condominiums	SP/SPA	SP/SPA	N
Town Houses	SP	SP	N
Lodging Houses	SP	SP	N
Commercial Categories			
Mixed uses consisting of any of the following types of uses: residential, retail, service and commercial uses (All residential uses must be located above the first floor) provided that the proposed uses are allowed in that district. (Amended ATM, May 14, 2001, Article 29).	Y	Y	Y
Home Occupation Uses	Y	Y	SP
Sole Proprietor-No on-site employees or customers	Y	Y	Y
Veterinary Hospital in which all animals are kept inside pens or buildings.	SP	SP	SP
Retail Establishments selling principally convenience goods including but not limited to: food, drugs, and proprietary goods with a maximum floor area limitation of 5,000 square feet per floor of any single establishment (Amended ATM, May 14, 2001, Article 29)	SPA	SPA	SP/SPA
ZONING DESIGNATION	HB	GB	NB

Retail Establishments selling principally convenience goods including but not limited to: food, drugs, and proprietary goods with a maximum floor area limitation of 10,000 square feet per floor of any single establishment.	SPA	SPA	N
Retail Establishments selling principally convenience goods including but not limited to: food, drugs, and proprietary goods with a floor area exceeding 10,000 square feet per floor of any single establishment.	SP/SPA	N	N
Retail establishments selling general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares and hardware and including discount and limited price variety stores with a maximum floor area limitation of 5,000 square feet per floor for any single establishment (Amended ATM, May 14, 2001, Article 29)	SPA	SPA	SP/SPA
Retail establishments selling general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares and hardware and including discount and limited price variety stores with a maximum floor area limitation of 10,000 square feet per floor for any single establishment.	SPA	SPA	N
Retail establishments selling general merchandise, including, but not limited to, dry goods, apparel and accessories, furniture and home furnishings, home equipment, small wares and hardware and including discount and limited price variety stores with a floor area exceeding of 10,000 square feet per floor for any single establishment.	SP/SPA	N	N
Eating and drinking establishments where consumption is primarily intended to be within the building	SPA	SPA	SP/SPA
Tradesman with on-site employees and customers	SPA	SP/SPA	SP/SPA
Tradesman with only one employee and meeting the criteria of a home-occupation	Y	Y	Y

Sole proprietor with no on-site employees or customers	Y	Y	Y
Miscellaneous professional and business office and service including, but not limited to, medical, legal, and other professional services and finance, insurance and real estate offices	SPA	SPA	SP/SPA
Business service and supply service establishments	SPA	SPA	SP/SPA
Repair service establishments	SPA	SPA	SP/SPA
ZONING DESIGNATION	HB	GB	NB
Commercial parking lot or structure including a public garage	SPA	SPA	N
Night club/dance hall	SP/SPA	SP/SPA	N
Hotel/Motel	SP/SPA	SP/SPA	N
Personal and consumer service establishment	SPA	SPA	SPA
Funeral establishment	SP/SPA	N	N
Membership club operated for profit	SP/SPA	SP/SPA	N
Membership Club not operated for profit	SPA	SPA	SPA
Medical center including accessory medical research and associated facilities	SP/SPA	N	N
Automotive repair or automobile service station (not including junkyard or open storage of abandoned automobiles or other vehicles) subject to obtaining gas storage permit where necessary from Board of Selectmen and/or Fire Department.	SPA	SP/SPA	N
Motion picture establishment - indoor	SPA	SP/SPA	N
Pool or billiards hall, amusement arcade, bowling alley	SPA	SP/SPA	N
Establishments selling foods prepared on the premises where consumption is primarily off the premises	SPA	SP/SPA	SP/SPA
Teen Center	Y	Y	Y
ZONING DESIGNATION	HB	GB	NB
Outdoor commercial Recreation use	SP/SPA	N	N
Large Scale Conference/Entertainment Facility	SP/SPA	SP/SPA	SP/SPA
Miniature Golf Course	SPA	N	N
Drive Through Facility	SP/SPA	SP/SPA	SP/SPA

Construction Supply establishments	SP/SPA	N	N
Wholesale bakery, wholesale laundry, or dry cleaning plant	SP/SPA	N	N
Business service and supply establishments	SPA	N	N
Repair service establishments	SPA	SP/SPA	SP/SPA
Establishments selling, leasing or renting new and/or used automobiles, trucks, boats, motorcycles, household and camping trailers and new automobile tires and other accessories	SPA	N	N
Office	SPA	SPA	SP/SPA
Quick Vehicle Servicing	SPA	N	N
Vehicle Repair	SPA	N	N
Self-Service Storage	SP/SPA	N	N
Major Event Entertainment	SP/SPA	N	N
Community Service/Municipal Uses			
Colleges	Y	Y	Y
Heavy Public Use Should this be SPA?	BS	BS	BS
Historical Society (may incl. residence of caretaker)	Y	Y	Y
Nursing Home	SP/SPA	N	N
Hospice, Assisted Living facility or life care facility	SP/SPA	N	N
Religious Institutions	SPA	SPA	SPA
Family Day Care in the Home (Including Family Day Care Home Plus and Large)	Y	Y	Y
Private Daycare, Nursery Care or Kindergarten	SPA	SPA	SPA
Professional Office Building for physicians, surgeons, Dentists and other medical and paramedical and pararental personnel facilities.	SPA	SPA	N
Clinic or emergency healthcare facility or facility For the promotion and maintenance of good health	SPA	SPA	N
Other Categories			
Agricultural uses, except a greenhouse or stand for retail sales	Y	Y	Y
Temporary Greenhouse or stand for retail sale of agricultural products	Y	Y	Y

ZONING DESIGNATION	HB	GB	NB
Year round greenhouse or stand for wholesale and retail sale of agricultural products	Y	Y	Y
Non-Commercial forestry and growing of all vegetables	Y	Y	Y
Flea Market	Town Manager	Town Manager	Town Manager
Airport	SP/SPA	N	N
Commercial Telecommunications Towers	SPA	SPA	SPA
Bus passenger terminal and taxi facilities	SP/SPA	SP/SPA	N
Railroad passenger terminal	SP/SPA	SP/SPA	N

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Article X. Village Center Districts.

§ 171-63. Village Center Districts.

The Village Center District Zoning sections are listed on the following pages.

§ 171-64. Reserved.

§ 171-65.

A. Criteria for granting a Special Permit for Front Yard setbacks in excess of ten feet in the Village Center Districts.

- (1) The Planning Board shall consider the following criteria when considering granting a special permit for front yard setbacks in excess of ten feet:
 - (a) Applicant must demonstrate through the use of visual tools why the proposed development cannot meet the maximum front yard requirement.
 - (b) The applicant shall, where feasible, use vegetation, fencing, or other architectural and landscape design elements to maintain or establish a visual connection between the public street and the building façade.
 - (c) The applicant shall make reasonable efforts to define and reinforce the average build to line of the street on which it faces by utilizing trees, hedges, walls or fences. If the average build to line exceeds the maximum front yard requirement for the proposed use; the average build to line shall be that maximum front yard requirement for the proposed use.
 - (d) The applicant shall not exceed the maximum front yard requirement any more than is necessary to accommodate the stated need for the larger front yard.

B. Criteria for granting a Special Permit for varying dimensional requirements in the Village Center Districts.

- (1) The Planning Board shall consider the following criteria when considering granting a special permit for varying dimensional requirements in the Village Center Districts:

- (a) Applicant must demonstrate through the use of visual tools why the proposed development cannot meet the maximum front yard requirement
- (b) The applicant shall not vary any dimensional requirement any more than is necessary to accommodate the stated need for the dimensional relief.
- (c) Applicant must demonstrate that there is no reasonable alternative site and building design that would maintain the dimensional requirements of the bylaw.
- (d) Applicant must demonstrate that the proposed design of development makes adequate provisions for public safety, provides adequate control over vehicular traffic, and further enhances the amenities if the site and of the Village Center District.
- (e) For proposals that exceed the maximum building height, the applicant shall demonstrate that the portion of the proposed structure does not significantly degrade solar access to surrounding properties.
- (f) The Board shall find the extent to which the proposed development plan is, or is not, consistent with the purpose of the Village Center District bylaw.

Article XI. Urban Renewal Industrial Park District

§ 171-66. Urban Renewal Industrial Park District.

A. Purpose. The purpose of this district is to provide the Town of Palmer with a mix of sound, clean industrial development and high-density residential uses while conserving natural resources and protecting and enhancing the environment.

B. Uses Permitted.

(1) Industrial

- (a) Plants for the manufacture, light fabrication, processing, conversion, alteration, finishing, assembly and wholesaling of products, provided that such use does not create a hazard or nuisance through danger of pollution, fire or explosion, noise, vibration, dust, waste, smoke, fumes or odor.
- (b) Research, experimental or testing laboratories, subject to performance standards stated in Subsection B (1) (a) above.
- (c) Public safety building or public utility building.
- (d) Uses accessory to primary uses, including restaurant (totaling no more than three percent (3%) of the total space of the primary use), warehousing, freight depot, off street parking, off street loading and other uses which are clearly incidental to the primary uses and meet the performance standards of the primary uses.
- (e) Warehousing, storage and transfer of lumber and/or steel and such other building materials.

(2) Public open space.

- (a) Open spaces shall be retained, insofar as possible, in their natural state except for passive recreation facilities such as trails, walkways, benches, etc. (Other open spaces as specifically indicated in the Palmer Industrial Urban Renewal Plan, dated 1972, may be used for active recreation purposes, such as playgrounds or ball fields.)

(3) Residential.

- (a) Multi-family dwellings for three (3) or more families, including but not limited to apartments, townhouses or row houses and held as condominiums or cooperatives, or other forms of ownership. Density shall not exceed more than twenty (20) dwelling units per acre.
- (b) Permitted uses shall also include uses accessory to the housing use, such as off-street parking.

C. Building Requirements. All parcels of land within the project area shall conform to the following requirements:

(1) Site coverage by buildings.

- (a) Industrial use: not exceeding forty percent (40%) of the parcel area.
- (b) Residential use: not exceeding twenty percent (20%) of the parcel area.

(2) Building height.

- (a) Industrial use: not exceeding forty (40) feet.
- (b) Residential use: not exceeding thirty-five (35) feet or three (3) stories.

(3) Building setback.

- (a) Industrial use: no requirement adjacent to a railroad right-of-way and not less than fifty (50) feet from all other property lines.
- (b) Residential use: no less than thirty (30) feet from a public street, eighty (80) feet from the top bank of the Swift River, and thirty-five (35) from all other property lines.

D. Parking and loading standards.

(1) Off street parking spaces shall be provided in an amount sufficient to serve each use and so located to provide safe and convenient access.

- (a) Industrial. For industrial uses, a minimum of one (1) parking space shall be provided for each two (2) employees on the maximum work shift or one (1) parking space for every seven hundred fifty (750) square feet of building area used for production whichever is greater.
- (b) Residential. For residential uses, a minimum of one and one-half (1 1/2) parking spaces shall be provided for each dwelling unit other than those designed for the elderly in which case a minimum of one (1) space per three (3) dwelling units will suffice. Each space shall contain at least one hundred eighty (180) square feet in area and shall be provided with proper ingress and egress.
- (c) Off-street parking areas shall not be located within twenty (20) feet of a public way. Parking areas shall be adequately drained and paved with an all weather, dust free surface. Access at the street line shall be limited to well defined points, and in no case shall there be unrestricted access along the length of the street.

(2) Off-street loading

- (a) A minimum of one (1) off street loading space shall be provided for the first ten thousand (10,000) square feet of gross building floor area and an additional space shall be provided for each twenty-five thousand (25,000) square feet thereafter. The minimum size of each loading space shall be twelve (12) feet wide by thirty-five (35) feet long, except that the width of each space may be reduced to ten (10) feet where there are adjacent spaces without intervening obstructions.

(b) Loading spaces shall be located on the sides of buildings which do not front on a street.

E. Screening

Screening in the form of evergreen shrubs and/or trees shall be provided and maintained along the boundaries of any parcel abutting open space areas and along the boundary of the Urban Renewal Industrial Park District. This screening shall be adequate to effectively screen the industrial uses, including parking areas from the open space areas and other areas surrounding the project area.

F. Signs.

(1) Signs for industrial and recreational uses shall be directly related to the principal use of the parcel upon which they are located, except that one (1) announcement sign for the industrial park and its occupants may be located at the major entrance to the area.

(2) One (1) freestanding sign of not more than twelve (12) square feet in area per face is permitted on each separate use parcel. In addition, signs attached flat against the wall of a building are permitted, provided that they do not exceed one (1) square foot in area for each linear foot of horizontal length of facade on which they are mounted. A limited number of signs, not exceeding four (4) square feet in area each, are permitted as necessary for directional purposes to entrances and exits, parking and loading areas. Flashing signs, animated signs, roof signs and billboards are prohibited.

G. Exterior lighting.

All exterior lights shall be designed and placed so that they do not reflect into adjacent buildings or towards areas outside the project area.

Article XII. Industrial Districts

§ 171-67. Industrial A District.

A. Purpose: The industrial zones are for areas within the Town that are reserved for industrial uses and for areas that are of mixed use, but have a strong industrial orientation. The regulations promote areas which consist of uses and developments which will support the economic viability of the zoning district and the town. Review and approval of these uses are required to be certain that there will be protection of the health, safety and welfare of the public, address area character and environmental concerns.

B. Uses Permitted with Site Plan Approval in Industrial A.

(1) Any manufacturing or industrial use, including processing, fabrication and assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire. A list of uses allowed with site plan approval follows:

- (a) Manufacturing
- (b) Processing
- (c) Packing
- (d) Office Buildings
- (e) Public Utility Uses
- (f) Research Laboratories and Research Facilities

- (g) Accessory buildings and uses located on the same lot with the main buildings
- (h) Warehousing, including but not limited to temporary storage containers, storage buildings and industrial storage.
- (i) As an accessory use to a permitted manufacturing or warehousing use, retail sales shall be permitted, but in no case shall retail sales space exceed fifteen (15) percent of the total floor area of the principal building.
- (j) Farming or other agricultural uses.
- (k) Above ground radio and television broadcasting stations and towers, telecommunication towers and accessory structures (Amended ATM, May 14, 2001, Article 29.).
- (l) Iron, steel or other metal manufacture or processing, drop forging with power hammer, boiler works, heavy weight casting including galvanizing or other treatment.

C. Uses which may be allowed by Special Permit and Site Plan Approval in Industrial A (Amended ATM, May 14, 2001, Article 29)

- (1) Regular open air-storage of materials, merchandise, products or equipment needed in connection with, or produced by, the principal use of the premises. These uses shall include, but not be limited to, Lumber Yards and Contractors Yards.
- (2) Large Scale Conference/Entertainment Facilities
- (3) Sales and Service Uses (Amended – Special Town Meeting – June 24, 2002. Article 2)

D. Uses which may be allowed by Special Permit and Site Plan Approval in Industrial B:

(1) Any manufacturing or industrial use, including processing, fabrication and assembly, provided that no such use shall be permitted which would be detrimental or offensive or tend to reduce property values in the same or adjoining districts by reason of dirt, odor, fumes, smoke, gas, sewage, refuse, noise, excessive vibration or danger of explosion or fire. A list of uses allowed by special permit and site plan approval follows:

- (a) Manufacturing
- (b) Processing
- (c) Packing
- (d) Office Buildings
- (e) Public Utility Uses
- (f) Research Laboratories and Research Facilities
- (g) Accessory buildings and uses located on the same lot with the main buildings
- (h) As an accessory use to a permitted manufacturing or warehousing use, retail sales shall be permitted, but in no case shall retail sales space exceed fifteen (15) percent of the total floor area of the principal building. (Amended ATM, May 14, 2001, Article 29)

E. Prohibited Uses in Industrial A or B.

- (1) Abattoir
- (2) Ammonia, chlorine or bleaching powder manufacture
- (3) Commercial coal yard, coal storage or commercial salt storage

- (4) Creosote manufacturing
- (5) Distillation of coal, wood or bones
- (6) Fertilizer or potash manufacturing or refining
- (7) Glue or size manufacturing or process involving recovery from fish or animal offal
- (8) Leather processing
- (9) Paint manufacture
- (10) Incineration of infectious and biogenetic research material
- (11) Waste hauling establishments
- (12) Recycling centers

F. Prohibited Uses in Industrial B.

- (1) Warehousing as a primary use

G. Special Guidelines:

- (1) All requirements as outlined in Article V for Special Permit and Site Plan Approval shall apply.
- (2) Landscaping and Buffer requirements in Article XVI shall be followed.
- (3) Parking and Loading requirements are outlined in Article XVIII.
- (4) All other applicable sections of this by-law shall be adhered to.

Article XIII. Floodplain District

§ 171-68. Floodplain District. (Revised ATM – June 7, 2004)

A. Purpose.

- (1) The purposes of this district are.
 - (a) To provide that lands in the Town of Palmer subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupant thereof.
 - (b) To protect persons and property within the Town of Palmer from hazards of flood inundation by assuring the continuation of natural flow patterns and the maintenance of adequate and safe floodwater storage capacity.
 - (c) To protect the community against pollution and costs which may be incurred when unsuitable uses occur along watercourses, wetlands, ponds, and reservoirs or in areas subject to flooding.
- (2) The Floodplain District is established as an overlay district to all other districts. All development, including structural and nonstructural activities, whether permitted by right or by special permit, must be in compliance with MGL C. 131, § 40, and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains.

B. District Delineation.

- (1) The general boundaries of the Floodplain District are shown on the Town of Palmer Flood Insurance Rate Map (FIRM), dated November 4, 1981, as Zones A, A1-30 to indicate the

one-hundred-year floodplain. The exact boundaries of the district are defined by the one-hundred-year water surface elevations shown on the FIRM and further defined by the flood profiles contained in the Flood Insurance Study, dated May 4, 1981. The floodway boundaries are delineated on the Town of Palmer Flood Boundary-Floodway Map (FBFM), dated November 4, 1981, and further defined by the Floodway Data Tables contained in the Flood Insurance Study. These two (2) maps, as well as the accompanying study, are incorporated herein by reference and are on file with the Planning Board.

(2) The above-described Floodplain District is hereinafter also referred to as the "floodplain". The floodway is hereby defined to include both the area shown as within the floodway on the above-referenced maps and the area within the floodplain which lies ten (10) feet or more below the elevation of the floodplain limits. The boundaries of the floodway shall be determined by the limits of the more extensive of the aforesaid areas.

(3) Within Zone A, where the one-hundred-year flood elevation is not provided on the FIRM, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or floodproofing requirements, as appropriate, of this Article and of the State Building Code. If the data is sufficiently detailed and accurate it shall be relied upon to require compliance with this Chapter and the State Building Code.

(4) Base flood elevation data is required for subdivision proposals or other developments greater than fifty (50) lots or five (5) acres, whichever is the lesser, within unnumbered A zones.

C. Notification of Watercourse Alteration

(1) Notify in a rivervine situation, the following of any alteration or relocation of a watercourse:

(a) Adjacent Communities

(b) NFIP State Coordinator
Massachusetts Office of Water Resources
251 Causeway Street
Suite 600-700
Boston, Ma. 02114-2104

(c) NFIP Program Specialist
FEMA Region 1 Room 462
J.W. McCormack Post Office and Courthouse
Boston, Ma. 02109

D. Permitted Uses.

(1) The following uses of low flood damage potential and causing no obstruction to flood flows shall be allowed, provided that they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

(a) Outdoor recreational uses, including fishing, boating, play areas, etc.

(b) Conservation of water, plants and wildlife.

(c) Wildlife management areas, foot, bicycle and/or horse paths.

E. Special Permit Uses.

(1) Uses which may be established in the floodplain, but not in the floodway, by special permit in accordance with the regulations in **Article V - Administration and Enforcement**.

- (a) Nonresidential buildings, structures, or uses which comply in all respects with the provisions of the underlying district, including excavation, filling, and storage of equipment or materials.
- (b) Construction and maintenance of at-grade roads, driveways, utilities and other associated roadway facilities when access to land that is not situated in the floodplain is not possible because of ownership patterns or the provisions of the rules and regulations governing subdivision of land in the Town of Palmer, Massachusetts.

F. Use Regulations.

(1) Reference to Existing Regulations.

(a.) The floodplain district is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, § 40 of the Massachusetts General Laws and with the following:

- [1] Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 3107.0 “Flood Resistant Construction”)
- [2] Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)
- [3] Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- [4] Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5)

(2) Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

G. General Regulations:

- (1) The portion of any lot within the area delineated in Subsection B hereof may be used to meet the area and yard requirements for the district or districts in which the remainder of the lot is situated.
- (2) All encroachments, including fill, new construction, substantial improvements to existing structures and other development, are prohibited unless certification by a registered professional engineer is provided by the applicant, demonstrating that such encroachments shall not result in any increase in flood levels.
- (3) All Substantial improvements to existing residential structures must have their lowest floor, including basements, elevated to or above the base flood levels.
- (4) All new non-residential structures and substantial improvements to existing structures must have the lowest floor, including basement, elevated or floodproofed to or above the base flood level.
- (5) Mobile homes are prohibited within the floodway.

Article XIV. Water Supply Protection District

§ 171-69. Water Supply Protection District.

A. Purpose. To promote health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the Town and the region from any use of land or buildings which may reduce the quality and quantity of its water resources.

B. Scope of Authority. The water supply protection district is an overlay district and shall be superimposed on the other districts established by this ordinance. All regulations of the Town of Palmer Zoning ordinance applicable to such underlying districts shall remain in effect, except that where the Water Supply Protection District imposes additional regulations, such regulations shall prevail.

C. District Delineation.

(1) The Water Supply Protection District is herein established to include all lands within the Town of Palmer lying within the primary and secondary recharge areas of groundwater aquifers and watershed areas of reservoirs which now or may in the future provide public water supply. The map entitled "Aquifer Protection District", Town of Palmer, on file with the Town Clerk, delineates the boundaries of the district.

(2) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. At the request of the owner(s) the Town may engage a professional hydrogeologist to determine more accurately the location and extent of an aquifer or primary recharge area, and may charge the owner(s) for all or part of the cost of the investigation.

D. Definitions.

Groundwater: All water found beneath the surface of the ground.

Watershed: Lands lying adjacent to watercourses and surface water bodies which create the catchment or drainage areas of such water.

Impervious Surfaces: Materials or structures on or above the ground that do not allow precipitation to infiltrate the underlying soil.

Leachable Wastes: Waste materials including solid wastes, sludge and pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

Trucking Terminal: Business which services or repairs commercial trucks which are not owned by the business.

Hazardous Waste: A waste which is hazardous to human health or the environment. Hazardous wastes have been designated by the U.S. Environmental Protection Agency under 40CFR 250 and the Regulations of the Massachusetts Hazardous Waste Management Act, MGL, Chapter 21C.

Aquifer: Geologic formation composed of rock or sand and gravel that contain significant amounts of potentially recoverable Potable water. Aquifer locations in the Town of Palmer are depicted on a map entitled "Aquifer Protection District, (as may be amended from time to time).

Primary Aquifer Recharge Area: Areas which are underlain by surficial geologic deposits including glaciofluvial or lacustrine, stratified drift deposits or alluvium or swamp deposits, and in which the prevailing direction of groundwater flow is toward the area of influence of water supply wells.

Hazardous Material: Material including but not limited to, any materials, in whatever form, which

because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term shall not include oil.

Secondary Aquifer Recharge Area: Areas which are underlain by surficial geologic deposits including till or bedrock, and in which the prevailing direction of surface waterflow is toward public water supply wells or potential sites for such wells.

E. Permitted Uses.

(1) The following uses are permitted within the Water Supply Protection District, provided that they comply with all applicable restrictions in this ordinance, including but not limited to this Section.

- (a) Single family residences;
- (b) Residential accessory uses, including garages, driveways, private roads, utility rights of way, and on site wastewater disposal systems;
- (c) Agricultural uses such as farming, grazing and horticulture;
- (d) Forestry and nursery uses;
- (e) Outdoor recreational uses, including fishing, boating and play areas;
- (f) Conservation of water, plants, and wildlife; wildlife management areas;
- (g) Excavation for earth removal, provided that the requirements of § 171-69,G,1 are met, and an earth removal permit is granted by the Planning Board;
- (h) Childcare facilities and family day care homes as defined in M.G.L. Chapter 40A;
- (i) Structures for educational or religious purposes.

F. Prohibited Uses. The following uses are prohibited within the Water Supply Protection District.

(1) Business and industrial uses, not agricultural, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair, which generate, use, treat, process, store or dispose of hazardous wastes, except for the following:

- (a) Very small quantity generators of hazardous waste, as defined by 310 CMR 30.00 as amended, which generate less than 20 kilograms or 6 gallons of hazardous waste per month may be allowed by Special Permit in accordance with § 171-69 J of this by-law;
 - (b) Household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390 as amended;
 - (c) Waste oil retention facilities required by M.G.L. C. 21. s. 52A, and;
 - (d) Treatment works approved by Mass. Department of Environmental Protection and designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters.
- (2) Business or industrial uses, not agricultural, which dispose of or process wastewaters on site.
- (3) Trucking terminals, bus terminals, gasoline sales, automotive service and repair shops,

commercial fuel oil storage or sales.

- (4) Car washes, except when located on public water and sewer.
- (5) Any floor drainage systems in existing facilities, in industrial or commercial process areas, which discharge to the ground without a DEP permit or authorization.
- (6) The storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.21.
- (7) Solid waste landfills, dumps, auto recycling, auto graveyards, junk and salvage yards, landfilling or storage of sludge and septage with the exception of the disposal of brush or stumps.
- (8) Storage of liquid hazardous materials, as defined in MGL C. 21E, and or liquid petroleum products of any kind, except for the following:
 - (a) Storage which is incidental to:
 - [1] Normal household use and outdoor maintenance or the heating of a structure;
 - [2] Waste oil retention facilities required by Mass. General Laws C. 21, s. 52A;
 - [3] Emergency generators required by statute, rule or regulations, or;
 - [4] Treatment works approved by the Mass. Department of Environmental Protection designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters, provided that such storage shall be in a free standing above ground container within a structure or within the basement of a structure, within a diked, impermeable area sufficient to contain the volume of the tank plus 10% to prevent spills or leaks from reaching groundwater, and provided that the storage tanks and piping must comply with all applicable provisions of 527 CMR 9.00 Massachusetts Board of Fire Prevention regulations.
 - (b) Replacement of storage tanks or systems for the keeping, dispensing, or storing of gasoline, which existed at the time of adoption of this bylaw provided that:
 - [1] All such replacement storage tanks or systems shall be located underground as required by mass. Board of Fire Prevention regulations 527 CMR 14;
 - [2] All such storage systems shall be protected by one of the secondary containment systems specified in Mass. Board of Fire Prevention regulations 527 CMR 9.08(3)
 - [3] The head of the Fire Department may deny an application for tank replacement, or approve it subject to conditions if he/she determines that it constitutes a danger to public or private water supplies in accordance with 527 CMR 9.26 (4) (d).
 - (c) Replacement of all other storage tanks for liquid petroleum products other than gasoline, which must be above ground, in accordance with § 171-69,F,8, (a) above.
- (9) Outdoor storage of salt, de-icing materials, pesticides or herbicides.
- (10) Dumping or disposal on the ground, in water bodies, or in residential septic systems of any toxic chemical, including but not limited to septic system cleaners which contain toxic chemicals such as methylene chloride and 1-1-1 trichlorethane, or other household hazardous wastes. (See list of prohibited chemicals at Board of Health or Town Clerk's Office).
- (11) Stockpiling and disposal of snow or ice removed from highways and streets located outside the Water Supply Protection District that contains sodium chloride, calcium chloride,

chemically treated abrasives or other chemicals used for snow and ice removal.

(12) Wastewater Treatment works subject to 314 CMR 5.00 (any treatment works which discharge contaminants to the ground, except sanitary discharges less than 15,000 gallons per day which are in compliance with Title V) except the following:

- (a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
- (b) the replacement of an existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s).
- (c) treatment works designed for the treatment of contaminated ground or surface waters subject to 314 CMR 5.00.

G. Restricted uses. The following are restricted in the Water Supply Protection District:

(1) Excavation for removal of earth, loam, sand, gravel and other soils or mineral substances shall not extend closer than five (5) feet above the historical high groundwater table (as determined from on-site monitoring wells and historical water table fluctuation data compiled by the United States Geological survey whichever is higher). Monitoring wells shall be installed by the property owner in advance of excavation to verify groundwater elevations. In order to verify changes in elevations and direction of flow through triangulations, three monitoring wells shall be installed. The Planning Board shall have the option to require additional monitoring wells as appropriate to the site. The number and location of monitoring wells shall be based upon the slope of the terrain and the size of the parcel to be developed.

(2) This section shall not apply to excavations incidental to permitted uses, including but not limited to providing for the installation or maintenance of structural foundations, freshwater ponds, utility conduits or on site sewage disposal or to excavation sites less than five (5) acres in size;

- (a) Access road (s) to extractive operation sites shall include a gate or other secure mechanism to restrict public access to the site.
- (b) Upon completion of earth removal operations, all altered areas shall be restored with topsoil and vegetative plantings suitable to control erosion on the site.

(3) Sodium chloride for ice control shall be used at the minimum salt to sand ratio which is consistent with the public highway safety requirements, and its use shall be eliminated on roads which may be closed to the public in the winter.

(4) The storage of sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for the removal of ice and snow on roads shall be covered and located on a paved surface, with berms within a structure designed to prevent the generation and escape of contaminated run-off or leachate.

(5) Fertilizers, pesticides, herbicides, lawn care chemicals, or other leachable materials shall be used in accordance with the Lawn Care Regulations of the Massachusetts Pesticide Board, 333 (CMR 10.03 (30,31), as amended, with manufacturer's label instructions and all other necessary precautions to minimize adverse impacts on surface and groundwater.

(6) Installation of on-site sewage disposal systems shall not be installed in areas where soil percolation rates are faster than two minutes per inch without additional measures imposed by the Board of Health. (See Board of Health Regulations).

(6) The storage of commercial fertilizers and soil conditioners shall be within structures

designed to prevent the generation and escape of contaminated run-off or leachate.

(7) To the extent feasible, all new permanent animal manure storage areas shall be covered and/or contained to prevent the generation and escape of contaminated run-off or leachate.

(8) All liquid hazardous materials as defined in M.G.L. Chapter 21E, must be stored either in a free standing container within a building, or in a free standing container above ground level with protection to contain a spill the size of the container's total storage capacity.

H. Drainage.

(1) To the extent feasible, all run-off from impervious surfaces shall be recharged on site by being diverted toward areas covered with vegetation for surface infiltration. Such run-off shall not be discharged directly to rivers, streams or other surface water bodies. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. All detention basins and similar drainage structures shall be permanently maintained in full working order by the owner(s).

I. Area Regulations.

(1) Within the primary aquifer recharge area the minimum allowable lot size shall be sixty thousand (60,000) square feet in areas not served by municipal sewerage systems.

J. Special Permit Uses

(1) Uses allowed by Special Permit. Permitted uses are specified in Section E, in addition, the following uses may be allowed by Special Permit obtained from the Planning Board:

- (a) Commercial, industrial, governmental, or educational uses which are allowed in the underlying district, and which are not prohibited in Section F.
- (b) Any enlargement, intensification or alteration of an existing commercial or industrial use.
- (c) The rendering impervious of more than fifteen percent (15%) or twenty-five hundred (2,500) square feet of any lot, provided that a system for artificial recharge of precipitation to groundwater is developed, which shall not result in degradation of groundwater (See § 171-.69, H)

(2) Requirements for Special Permit in the Water Supply Protection District.

The applicant shall file six (6) copies of a site plan prepared by a qualified professional with the Special Permit Granting Authority. The site plan shall at minimum include the following information where pertinent.

- (a) A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
- (b) Those businesses using or storing such hazardous materials shall file a hazardous materials management plan with the Planning Board, Hazardous Materials Coordinator, Fire Chief, and Board of Health which shall include:
 - [1] Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage or vandalism, including spill containment and clean up procedures.
 - [2] Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.

[3] Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Mass Department of Environmental Protection. .

[4] The Board of Health shall be charged with the enforcement of this Section 171-69. J. 2(b).

- (c) Drainage recharge features and provisions to prevent loss of recharge.
- (d) Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- (e) Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.

3. Additional Procedures for Special Permit in the Water Supply Protection District:

- (a) The Special permit Granting Authority shall follow all special permit procedures contained in the zoning ordinance. In addition, the Planning Board shall refer copies of the application to the board of Health, Conservation Commission, Town Engineer, and Water Commissioners of the appropriate district which shall review the application, and following a vote of the Board/Department, shall submit their recommendations and comments to the Planning Board. Town Agencies which desire to make recommendations shall do so at the Public Hearing of the SPGA. (Special Permit Granting Authority).
- (b) After notice and public hearing, and after due consideration of the reports and recommendations of the Board/Departments, the Planning Board may grant such a Special Permit provided that it finds that the proposed use:
 - [1] Will not, during construction or thereafter, have an adverse environmental impact on groundwater resources in the district;
 - [2] Will not adversely affect the existing or potential quality and quantity of water in the Water Supply Protection District;
 - [3] Is appropriate to the natural topography, soils and other characteristics of the site to be developed;
 - [4] Has adequate public sewerage and water facilities;

K. Nonconforming Uses in the Water Supply Protection District.

- (1) Nonconforming uses which were lawfully existing, begun or in receipt of a building or special permit prior to the first publication of notice of public hearing for this ordinance may be continued. Such non-conforming uses may be extended or altered, provided that the applicant receives a Special Permit from the Planning Board which shall determine if the proposed change would increase the danger of groundwater pollution and thus be “substantially more detrimental to the neighborhood” as specified in M.G.L., Chapter 40A, Section 6.
- (2) Applicants shall follow procedures specified in Section 171-69.,J, of this ordinance.

Article XV Special Permit and Special Exception Conditions

In addition to the general conditions and procedures established in Article V of this ordinance for all special permits and special exception uses, the following additional requirements and procedures shall apply as indicated for the following uses:

§ 171-73. Earth Products Excavation Operations.

Earth products excavation operation shall include the removal of sand, gravel, loam, sod or other earth materials. Rock quarry operations shall be prohibited within the Town of Palmer. For the removal of sand, gravel, loam, sod or other earth materials, other than that which is incidental to and in connection with the construction of a building for which a permit has been issued in accordance with **Article V**, and for processing and treating raw materials, the following conditions shall govern:

A. Earth Products Excavation Operation

- (1) The Special Permit Granting Authority may issue a special permit and site plan approval for the removal of sand, gravel, loam, sod or other earth materials from any property within the Town of Palmer in accordance with the Rules and Regulations for the Development, Operation and Closeout of Earth Removal Operations as adopted and amended by the SPGA.
- (2) An earth products excavation operation will only be permitted on those lots considered by the Planning Board to have suitable access onto roads of sufficient width and capacity to support maximum projected loads.
- (3) No permit for an earth products excavation operation shall be issued if such an operation will, in the opinion of the Planning Board, cause any of the following:
 - (a) Endanger the public health and safety,
 - (b) Constitute a nuisance,
 - (c) Result in clear detriment to the normal use of adjacent property by reason of noise, dust or vibration,
 - (d) Result in traffic hazards in residential areas or excessive congestion on, or physical damage to, public roads, and/or
 - (e) Unacceptable depletion of natural resources other than the earth products proposed for excavation. In addition, no such operation shall be permitted in the WSP District if such operation will lower the level of the water table, interfere with the natural flow pattern of any watercourse, or reduce the flood storage capacity of any watercourse.
- (4) Any earth products excavation operation is subject to special permit and site plan approval as well as to the Rules and Regulations for the Development, Operation and Closeout of Earth Removal Operations as adopted and amended by the SPGA.
- (5) On site crushing will not be allowed in any residential district except under the following circumstances, and only when all of the following can be met:
 - (a) Crushing will only be allowed as a use incidental to earth removal
 - (b) Crushing will only be allowed at closeout where such activity is necessary to allow the removal of material and or debris from the site

- (c) The Planning Board shall have the authority to place limits on the hours and days of operation and duration of time such activity will be allowed
 - (d) Crushing will only be allowed by special permit when the applicant can demonstrate that there is a need for such activity in conjunction with closeout of the entire gravel operation or a portion of the operation.
- (6) On site screening will not be allowed in any residential district except under the following circumstances, and only when all of the following can be met:
- (a) Screening will only be allowed as a use incidental to earth removal
 - (b) The Planning Board shall have the authority to place limits on the hours and days of operation and duration of time such activity will be allowed
 - (c) Screening will only be allowed when it is requested and approved as part of the special permit for earth removal and when the applicant can demonstrate that there is a need for such activity in conjunction with the operation.

B. Exemptions.

- (1) The removal of earth material in any of the following operations shall be exempt from this section:
- (a) The removal of less than five hundred (500) cubic yards of material in the aggregate in any year from any one lot.
 - (b) The transfer of material from one part of a lot to another part of the same lot.
 - (c) The removal of material necessarily excavated in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance provided the quantity of material removed does not exceed that actually displaced by the portion of such building, structure, street, driveway, sidewalk, path or other appurtenances below finished grade.
 - (d) Non-Commercial earth products excavation as described below shall conform to the requirements set forth in (C.) below.

C. Non-Commercial Earth Products Excavation

- (1) The Planning Board may issue a special permit for earth removal to homeowners within the Town of Palmer when the undertaking of such operation is necessary to make the yard more usable, safer and/or aesthetically pleasing. An earth products excavation operation will only be permitted on those lots considered by the Planning Board to have suitable access onto roads of sufficient width and capacity to support maximum projected loads.
- (2) No permit for an earth products excavation operation shall be issued if such an operation will, in the opinion of the Planning Board, cause any of the following:
- (a) Endanger the public health and safety.
 - (b) Constitute a nuisance.
 - (c) Result in clear detriment to the normal use of adjacent property by reason of noise, dust or vibration,
 - (d) Result in traffic hazards in residential areas or excessive congestion on, or physical damage to, public roads, and/or

- (e) Unacceptable depletion of natural resources other than the earth products proposed for excavation. In addition, no such operation shall be permitted in the WSP District if such operation will lower the level of the water table, interfere with the natural flow pattern of any watercourse, or reduce the flood storage capacity of any watercourse.
- (3) Any non-commercial earth products excavation operation is subject to special permit and site plan approval as well as to the following conditions:
- (a) Any special permit and site plan approval issued for such an operation shall expire one year from the date of issue unless otherwise agreed upon. The applicant must file another special permit and site plan application for renewal of the operation for the following year or for any subsequent year in which operation is anticipated. The Planning Board reserves the right to deny renewal if, in its judgment, the operation has not satisfactorily conformed to the approved plan or to conditions as stated in the record of the Board.
 - (b) The applicant shall pay all necessary public hearing fees and application review fees if any.
 - (c) The applicant shall also submit three (3) sets of plans with the application for special permit containing the following:
 - [1] A boundary survey of the parcel or parcels in question at a scale of no less than 1 inch equals 200 feet, prepared by a land surveyor registered with the Commonwealth of Massachusetts.
 - [2] Topographic information showing existing contours, proposed contours at year's end, and ultimate contours at the time of site closeout, all at no more than two-foot intervals, prepared by a land surveyor registered with the Commonwealth of Massachusetts. The maximum slope in any operating area shall not exceed 3 feet horizontal to one foot vertical (3:1), and the maximum slope at close-out of any area shall not exceed four feet horizontal to one foot vertical (4:1). (Amended ATM, May 14, 2001, Article 29)
 - [3] Delineation of naturally wooded areas on the site.
 - [4] Provisions for drainage run-off.
 - [5] Undisturbed buffer areas of at least fifty (50) feet from any property boundary, at least fifty (50) feet from any public way, and at least one hundred (150) feet from any building.
 - (d) All suitable topsoil, which exists at the beginning of the operation, shall be held in reserve. At the time of close-out of each operating area, a minimum thickness of three inches of fertile topsoil shall be placed over all disturbed areas to support vegetative growth. Plantings of a suitable type as determined by the Planning Board shall be installed and maintained at close-out of each operating area to effectively control erosion from water and wind.
 - (e) No blasting and/or drilling whatsoever shall be permitted as part of the operation.
 - (f) Hours of operation shall be not more than the following: Monday through Friday, 7:30 AM to 4:00 PM, Saturday, 8:00 AM to 12 Noon. No operation shall be allowed on Sundays and Holidays unless specifically approved by the Planning Board.
 - (g) The Planning Board reserves the right to require that the applicant's application and plans be reviewed by an outside consulting or engineering firm. If such a review is required the expense of the review shall be the responsibility of the applicant. No

special permits shall be granted until all fees have been paid.

- (h) The Planning Board may waive any portion of the earth excavation regulations of these ordinances if, after considering and reviewing the information provided, the Planning Board finds that there are appropriate circumstances which warrant such action. However, following a hearing prior to which the applicant has been duly noticed, the Planning Board may revoke any previously granted waiver if, in its opinion, the public health, safety and welfare is judged to be sufficiently at risk if such waiver were to continue in effect.

(For Earth Removal Operations, See Chapter 233 of the Code of the Town of Palmer)

§ 171-74. Filling of Any Water or Wet Area.

A. For the filling in of any pond, lake, swamp, or other existing body of water or wet area where such filling is not covered by Article XIII Floodplain District or XIV Water Supply Protection District; and where such filling in requires an amount of fill equivalent to five hundred (500) cubic yards or more, or where the area to be filled in exceeds ten thousand (10,000) square feet and only subject to the approval by the Palmer Conservation Commission (prior to the filing an application for a special permit)under the applicable provisions of State law on inland wetlands, the following conditions apply:

- (1) A site plan shall be submitted as required in Article V, including the following additional information:
 - (a) The premises and surrounding area within one hundred (100) feet showing.
 - (b) Existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling in, in relation to the topography of the premises.
 - (c) A tie-in to the nearest road intersection.
 - (d) A plan for lighting if night operation is contemplated.
- (2) Provision shall be made for temporary and permanent drainage of the site.
- (3) Fills shall be limited to terrace fills which are not to exceed ten (10) feet at any one time nor be within ten (10) feet of an adjacent property line or any cut.
- (4) Re-grading of all or parts of the slopes resulting from such fill shall be carried out.
- (5) At least six (6) inches of topsoil shall be replaced over all filled or otherwise disturbed surfaces with seeding with a perennial cover crop, re-seeded as necessary to assure uniform growth and soil surface stabilization.
- (6) Where any fill will have a depth of ten (10) feet or more and create a slope of more than one vertical in two horizontal, there shall be a substantial fence enclosing the fill at least six (6) feet in height with suitable gates. Such fence shall be located ten (10) feet or more from the edge of the fill.

§ 171-75. Filling of Land Other Than Water or Wet Area.

A. For the filling in of any land area where such filling operation is not covered by the provisions contained in Article XIII – Floodplain District and Article XIV – Water Supply Protection District of this by-law, or which is not excepted in Section 1 below, no such filling in of land shall proceed without first securing a special permit according to the regulations and procedures set forth in Article V of this by-law, subject to the provisions contained herein.

(1) Exemptions. The filling in of any land area shall be exempt from this Section provided all of the following conditions are complied with:

- (a) A filling-in operation which does not exceed a total of five hundred (500) cubic yards of material.
- (b) A filling-in operation which does not exceed a total area of ten thousand (10,000) square feet on any lot, land parcel or subdivision thereof.
- (c) A filling-in operation which is associated with acceptable agricultural land management practices, including, but not limited to, plowing and construction of agricultural structures; nursery operations, such as the removal and/or transplanting of cultivated sod, shrubs, and trees; logging operations.
- (d) Filling-in operations associated with refuse disposal and sanitary landfill facilities within the Town of Palmer and operated in accordance with all appropriate State and local regulations.
- (e) Filling-in operations necessary in connection with lawful construction of a building, structure, street, driveway, sidewalk, path or other appurtenance.
- (f) Filling, as a maintenance measure, or for landscaping purposes on existing developed lots or parcels, provided that the aggregate of area(s) affected does not exceed ten thousand (10,000) square feet, the grade change does not exceed twelve (12) inches at any point and does not alter the drainage patterns; and the filling-in does not involve a quantity of material in excess of one hundred (100) cubic yards.

(2) Permit Procedures

- (a) The procedure for granting a special permit shall be as set forth in Article V of this ordinance for all special permits except that special permits granted under this section shall be for a period not to exceed one year. For a continuation of an operation beyond a period designated in the initial permit, a new application must be made and a new special permit must be granted in the same manner as for the initial permit except that the Board may waive requirements for submittal of materials required by this section. The applicant must request the waiver in writing. All other provisions relating to operational standards and permit procedures shall apply. A separate permit shall be required for each separate non-contiguous site, as for any expansion on the same site.

(3) Required Site Plan.

- (a) A site plan shall be filed with the Planning Board for any land which is to be filled and is covered by either Article XIII, or Article XIV of this ordinance and is not exempted under the provisions of Section 171.75 (1). Site plans for fill areas shall be prepared by a Registered Professional Engineer or a Registered Land Surveyor and reviewed according to the provisions of Section 171.28 and 171.29. Submission of site plans shall include, in addition to the material required in Section 171.28 and 171.29, the following:

[1] The premises and surrounding area within one hundred (100) feet showing the area to be filled in, property lines within which the filling is proposed, and tie-in to the nearest road intersection, existing and proposed contour lines at intervals of not more than two (2) feet resulting from the proposed filling in, in relation to the topography of the premises.

- [2] The location of any buildings, structures, utilities, sewers, water and storm drains within one hundred (100) feet of the site.
- [3] A certification of the quantity of fill involved.
- [4] Detailed plans of all temporary and permanent drainage provisions, retaining walls, cribbing, vegetative practices, erosion and sedimentation control measures and all other protective measures and devices utilized or constructed in connection with the area to be filled.
- [5] A timing schedule and sequence indicating the anticipated starting and completion dates.
- [6] Other plans, drawings or materials as may be required by the Building Inspector or the Planning Board.

(4) Conditions.

- (a) For the filling in of any land area subject to the provision of Section 171.75 of this by-law, the following conditions shall govern:

- [1] Provision shall be made for adequate temporary and permanent drainage of the site.
- [2] Fills shall be limited to terrace fills which are not to exceed ten (10) feet at any one time nor be within ten (10) feet of an adjacent property line or cut.
- [3] Re-grading of all or parts of the slopes resulting from such fill shall be carried out.
- [4] At least three (3) inches of topsoil shall be replaced over all filled or otherwise disturbed surfaces seeded or sodded with a perennial cover crop, re-seeded or re-sodded as necessary to assure uniform growth and soil surface stabilization.
- [5] Where any fill will have a depth of ten (10) feet or more and create a slope of more than one vertical in two horizontal, there shall be a substantial fence enclosing the fill at least six (6) feet in height with suitable gates. Such fence shall be located ten (10) feet or more from the edge of the fill.
- [6] Filling of land area that falls within the superimposed Water Supply Protection District is prohibited unless otherwise allowed in Article XIV.
- [7] The planned filling in of any land area shall be consistent with any recreation, conservation and open space plan as prepared by the Town Planning Board and/or Conservation Commission.
- [8] Documentation shall be submitted as to the effect of such filling-in activities on drainage, both within the immediate area and sufficiently far downstream, as required by the Building Inspector and/or the Planning Board.
- [9] Provisions shall be made such that the filling in of any land area shall not impair surface drainage, constitute an erosion hazard nor act as a source of sedimentation to any adjacent land or watercourse.

- [10] Provisions shall be made such that the filling in of any land area does not impair the safe and efficient operation of any on-site sewage disposal or drainage facilities nor those located on adjacent properties.
- [11] Provisions shall be made to reduce the area and duration of exposure of fill material(s) and to reduce the velocity of run-off, both during and after the completion of the filling-in activity in order to minimize the potential of soil erosion and siltation problems.
- [12] Provisions shall be made for the adequate control of dust during filling-in operations.
- [13] All disturbed fill areas shall be promptly seeded or sodded with a suitable ground cover and supplemented with other suitable plantings as soon as the season permits.
- [14] No final slopes shall exceed a slope of more than one (1) foot vertical in four (4) feet horizontal.
- [15] No filling in of land shall cause or permit any soil, earth, sand, gravel, rock, stone loam, or other fill material, or water or liquid to be deposited upon or to roll, flow or work upon or over the premises of another without the express consent of the owner of such premises so affected; nor shall any filling in of land cause or permit any soil, earth, sand, gravel, rock, stone loam, or other fill material or water or liquid to be deposited, or to roll, flow, or wash upon or over any public street, street improvement, road, sewer, storm drain, water course, or right-of-way, or public property.
- [16] Such other conditions as may be deemed necessary and reasonable shall be imposed by the Planning Board in order to prevent damage to public or private property or any sewer, storm drain, or watercourse, or to prevent the filling in of land from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance.

§ 171-76. Cluster Development.

A. For residential development in a clustered concept (a concept whereby the residences are clustered on a portion of the lot, thereby leaving more of the parcel undeveloped and in open space, the purpose of which is to: a) preserve the rural character of the community by maximizing and preserving expanses of open space in their natural state; b) provide a buffer between developments, and; c) serve a functional relationship to each of the lots in the development) in those districts for which such an option is allowed by the Table of Use Regulations, the following rules and conditions shall apply:

- (1) A development plan on standard twenty-four (24) inch by thirty-six (36) inch sheets, for the entire tract at a scale of one inch equals one hundred (100) feet, shall be prepared by a registered land surveyor or registered professional engineer registered in the Commonwealth of Massachusetts. The plan shall be submitted to Planning Board and shall show at least the following:
 - (a) Existing and proposed contours at two (2) foot intervals on the tract and within fifty (50) feet thereof.
 - (b) The location and acreage of areas to be devoted to specific uses.

- (c) Existing and proposed streets, parking areas, drainage and utility systems, including sewer and water, street lighting, landscaping, fire alarm systems, sidewalks, and easements, and natural features.
 - (d) Proposed clustered residential density of development and gross density of development in terms of square feet per family.
 - (e) The proposed location of parks, open spaces and other public or community uses.
 - (f) Such other information as may be required by the Planning Board.
- (2) For those proposed developments which will also involve the subdivision of land and/or require the Planning Board's Approval under the Subdivision Control Law:
- (a) a Definitive Subdivision Plan shall be filed with the Special Permit Application in lieu of the Development Plan (said Definitive Subdivision Plan shall also include all of the information required in 1. above),
And,
 - (b) The Definitive Subdivision Plan shall be filed with the Planning Board for Approval under the Subdivision Control Law at the same time that the Special Permit for the Open Space Residential Development is filed.
- (3) The tract for which an Open Space Residential Development is proposed shall be in a single ownership or control at the time of application, and shall be comprised of at least four (4) contiguous acres.
- (4) The use and density requirements shall apply in lieu of the similar provisions of the Table of Use Regulations and the Table of Dimensional and Density Regulations in Article VI. All other zoning provisions shall apply. Prior to submitting a Special Permit Application, applicants should be sure that the lots are configured sufficiently to locate the proposed structures on the lot in conformance with the required setbacks.
- (a) The minimum clustered lot area is the land area required for the siting of each residential building exclusive of streets, water area, open space, and common land. Each to be located on its own individual lot. For townhouses and multi-family structures, all of the structures shall be located on one lot under common ownership. The total number of units shall be determined by sub-section 5 below.
 - (b) When the rear or side yard of an individual lot in the development abuts a lot not in that development, then said rear yard and side yard building setbacks shall be equal to those required for a non-clustered lot in that Zoning District.
- (5) The maximum number of dwelling units in the development shall be computed by multiplying the total tract area (less wetland and proposed roadways) by the density shown below for the appropriate zone:
- (a) RR .95 dwelling units per acre
 - (b) SR 1.95 dwelling units per acre
 - (c) TR 3.90 dwelling units per acre
 - (d) Fractions over one-half may be increased to the nearest whole unit, and fractions under one-half shall be decreased to the nearest whole unit. (Amended ATM, May 14, 2001, Article 29).

(6) The proposal shall conform to the provisions of any and all applicable local, state and federal rules and regulations.

(7) If the development or individual lots are served by both an on-site water supply (well) and an on-site sewage disposal system (septic tank), then the required Minimum Clustered Lot area is doubled, and the density is based on a ratio of .47 dwelling units per acre.

(8) Of the total tract area, at least fifty (50) percent (of which at least seventy-five (75) percent shall be neither bordering vegetated wetlands (as defined in M.G.L. Chapter 131, Section 40, the Wetlands Protection Act and 310 CMR) nor have a slope of over five (5) percent) shall be set aside as Common Open Space. A functional relationship shall exist between the Common Open Space areas and the proposed residential clusters. Such Common Open Space shall be restricted to open space, agricultural uses, recreational uses such as tot-lot, park, playground, play field, golf course, or conservation area,

(a) Such Common Open Space shall have suitable access to and from the development's street(s), and shall conform to the requirements of the Palmer Subdivision Regulations in effect at the time of Application.

9. Such Common Open Space shall be placed under a Conservation Restriction/Easement in accordance with the provisions of M. G. L. Chapter 184, Sections 31-33 as amended. Such common land shall be conveyed to an organization or the legal entity established for the purpose of owning and maintaining such common land. Such organization shall be created by covenants running with the land, and such covenants shall be included with the submitted development plan and shall be subject to approval by the Town Counsel.

(a) Such organization shall not be dissolved nor shall it dispose of any common open space by sale or otherwise (except to an organization conceived and organized to own and maintain the common open space), without first offering to dedicate the same to the Town.

(b) Covenants creating such organization shall provide that in the event the organization established to own and maintain common open space, or any successor organization, shall at any time after establishment of the development fail to maintain the common open space in reasonable order and condition in accordance with the development plan, the Town may serve notice in writing upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition, and said notice shall contain a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a public hearing thereon which shall be held within twenty (20) days of the notice. At such hearing the Town may modify the terms of the original notice as to the deficiencies and may grant an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Town, in order to preserve the taxable values of the properties within the development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said one-year period, the Town shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice in writing to such organization or to the residents of such development, to be held by the Planning Board, at which

hearing the organization shall show cause why such maintenance by the Town shall not, at the election of the Board continue for a succeeding one-year period. If the Board shall determine that such organization is ready and able to maintain the common open space in reasonable condition at the end of said one-year period, the Town shall cease to maintain the common space at the end of said one-year period. If the Board shall determine that such organization is not ready and able to maintain the common open space in a reasonable condition, the Town may, in its discretion, continue to maintain the common open space during the next succeeding year, and subject to a similar hearing and determination in each year thereafter.

- (c) The covenants creating such organization shall further provide that the cost of such maintenance by the Town shall be assessed ratably against the properties within the development that have a right of enjoyment of the common open space, and shall become a charge of said properties, and such charge shall be paid by the owners of said properties within thirty (30) days after receipt of a statement therefor.
- (d) The covenants shall provide that each dwelling unit shall have an equal say in determining the affairs of the organization; that costs shall be assessed equally to each dwelling unit; and that the organization shall be retained in the control of the developer no longer than until a majority of dwelling units are conveyed to permanent owners.
- (e) Where appropriate, and with the approval of the Planning Board, by virtue of the large size of a development or of the diversity of uses or dwelling types therein, more than one separate and distinct organization may be created. Separate organizations may not be created, however, where one might be too small (in terms of the number of lots included) to operate efficiently, or where one has a responsibility for too large or costly (to maintain) parcel of open space in proportion to that under the responsibility of other organizations within the same development.

§ 171-77. Reserved.

§ 171-78. Heavy Public Use.

A. For a special permit for the construction of, development of, or use of any lot for a heavy public use, the following conditions shall apply:

- (1) A statement shall be submitted indicating the need for the facility or use and the rationale for its development, the criteria used in selecting a site, and the location of all alternative sites considered, and the reasons for not selecting them.
- (2) A plan for the use of the site shall be submitted to the Building Inspector for transmittal to the Town Manager, showing, in addition to the material required in § 171-29 the following:
 - (a) Two (2) foot contours on the parcel and within fifty (50) feet thereof.
 - (b) The location and dimensions of all buildings, structures, and exterior use areas, including all parking areas and driveways.
 - (c) The location of buffer strips, screening provisions (with details attached), and areas to be preserved in a natural state, all these to be sufficient to preclude visibility of the uses and structures from adjoining parcels.
 - (d) Such other facts as the Town Manager may require.
- (3) In considering an application for a heavy public use, the Town Manager shall be particularly cognizant of potential noise, odors, or other detrimental environmental nuisances which might be

generated; of traffic and the ability of the local street network to accommodate increased traffic; of the ability of the utility systems to accommodate any increased demands which might be placed upon them by the proposed use; and of the applicable provisions of the adopted comprehensive plan of the Town.

§ 171-79. Reserved.

§ 171-80. Reserved.

§ 171-81. Home Occupation Special Permit Criteria.

A. Requirements. All Home Occupations and Special Permits issued for Home Occupations shall comply with the following:

- (1) It must be clearly incidental and secondary to the use of the building or property for residential/dwelling purposes,
- (2) It must be conducted by the principal practitioner who occupies the main building as his/her bonafide residence, with no more than one other person engaged in the occupation except members of the immediate family also residing in such building,
- (3) It must not occupy more than 40% of the gross combined floor area of the main building, and the accessory structure (if such accessory structure is utilized for said home occupation),
- (4) One sign may be displayed advertising the Home Occupation provided:
 - (a) It does not exceed two (2) square foot in area (Amended ATM, May 14, 2001, Article 29)
 - (b) It is attached to the structure next to or on the entryway for said Home Occupation,
 - (c) It is not illuminated.
- (5) Goods may only be offered for sale from the premises if the Planning Board expressly permits it in the issued Special Permit,
- (6) All goods sold must be produced or manufactured on the premises, or must be an accessory item to such goods, or to the services provided on the premises. (Amended ATM June 16, 2003 – Article 11)
- (7) The hours of operation shall be expressly stated in the Special Permit issued by the Planning Board,
- (8) The hours and frequency of deliveries of products and/or materials shall be expressly stated in the Special Permit issued by the Planning Board.
- (9) If said Home Occupation takes place in an accessory structure:
 - (a) constructed prior to the date of the adoption of the by-law, than said structure must conform to the setback requirements for accessory structures in that District:
 - (b) constructed after the date of the adoption of this by-law, than said structure must conform to the setbacks requirements for a principal structure in that District,
- (10) It shall produce no noise, obnoxious odors, vibrations, glare, fumes or electrical interference which would be detectable to normal sensory perception beyond the lot line,

(11) The portion of any structure utilized for a Home Occupation shall conform to all applicable Fire, Building, Electrical, Plumbing and Health codes,

(12) Prior to the commencement of any Home Occupation, a Certificate of Occupancy must be received from the Building Inspector for any structure, or portion thereof, used for said occupation,

(13) All Special Permits for Home Occupation must be renewed once, immediately following the first year of operation. Said renewal process shall follow the same procedures as an original Special Permit submission. There is no guarantee that the permit will be renewed if the applicant has not met conditions in the previous year.

(14) All special Permits for Home Occupations are Non-Transferable and are specifically issued to a specific applicant for a specific Home Occupation.

(15) All Special Permits are terminable by the SPGA for violation of any conditions upon which it is granted or upon violations of this bylaw after hearing by the SPGA with notice to all interested parties.

§ 171-82. Reserved.

§ 171-83. Pre-Existing Non-Conforming Uses, Structures and Lots.

Except as hereinafter provided, this Zoning ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this ordinance, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure, and to any alteration of a structure began after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent, except where alteration, reconstruction, extension or structural change to a single or two family residential structure does not increase the non-conforming nature of said structures.

A. Objectives. The provisions of this section are intended to achieve the following purposes:

(1) Allow non-conforming situations to continue until they are discontinued or abandoned (*Amended ATM, May 14, 2001, Article 29.*).

(2) Encourage change in non-conforming situations towards greater compliance with the provisions of this by-law and to reduce the degree of non-conformity. Where a non-conforming situation is proposed to be changed, to encourage greater conformity with all the provisions of the by-law and the objectives and procedures stated in this ordinance.

(3) To allow for the alteration, expansion or extension of a non-conforming use subject to the issuance of a *Finding* by the Planning Board or Zoning Board of Appeals as specified. Non-conforming uses in residential zones shall be subject to more restrictive standards than those in non-residential zones.

(4) To permit possible expansion of non-conforming buildings provided there are no demonstrable adverse impacts on the adjoining properties.

(5) In the event of the involuntary destruction in whole or part of a non-conforming situation, to permit the reconstruction of the non-conforming situation so that the owner, and tenants, if any, are not subjected to substantial economic loss while, at the same time, seeking to achieve

greater conformity with the provisions of this by-law and to reduce any adverse impact on the surrounding area.

(6) To permit the treatment of non-conforming situations to be varied by the type of zoning district and the type of non-conformity, i.e. to have a different approach for uses, structures, and parking lots.

B. Applicability.

(1) Non-conforming situations

For the purpose of this ordinance, non-conforming situations are those uses, building, structures, parking lots, parking spaces, loading bays, signs, landscaping and other activities that are now subject to the provisions of this ordinance which were lawful before this ordinance was adopted, or before amendments to this ordinance which are applicable to the situation were adopted, and such situations do not now conform to the provisions of this ordinance.

1. Non-Complying Situations

For the purposes of this ordinance, non-complying situations are those uses, building, structures, lots, parking spaces, loading bays, signs, landscaping and other activities that are subject to the provisions of this ordinance which were unlawfully created after this ordinance was adopted or after amendments to this ordinance which are applicable to those situations were adopted, and are in violation of this ordinance and may be called non-complying situations (*Amended ATM, May 14, 2001, Article 29*).

2. Non-complying Situations Six (6) Years or Older

In accordance with Massachusetts General Law (MGL), Chapter 40A, Section 7, any structure, or part thereof, which has been improved and used in accordance with the terms of a building permits issued by a duly authorized person, may not be the subject of an enforcing action by the Town to compel the removal, alteration or relocation of said structure, or the abandonment, limitation or modification of the use allowed by said permit unless enforcement action is commenced within six (6) years from the date of the alleged violation of law. Uses and structures in existence for six (6) years or more and which qualify under this section are considered to be non-conforming situations and are entitled to treatments as such, as provided in this section.

3. Non-Complying Structures Ten (10) Years or Older

In accordance with MGL, Chapter 40A, Section 7, any structure, or part thereof, which has not been in compliance with this by-law, or the conditions set forth in any Special Permit or variance affecting the structure, may not be the subject of an enforcement action by the Town unless enforcement action is commenced within ten (10) years from the date of the alleged violation of law. Structures in existence for ten years or more and which qualify under this section are considered to be non-conforming situations and are entitled to treatments as such provided that any proposed change, alteration or extension will not affect the non-complying conditions. Any change, alteration or extension of the non-complying condition shall be subject to the provisions of the ordinance and require that form of relief which would otherwise be necessary to allow said change, alteration or expansion.

C. Limitations:

A use building, structure, lot, parking space, loading bay, sign, landscaping or any other activity which is non-conforming, but not non-complying, may be continued but may not be increased, expanded or altered, except as may be specifically authorized by this section. If such non-

conforming situation is abandoned or terminated, as set forth below, it may not be resumed except in compliance with this ordinance.

D. Lawfully Created Situations:

A use, building, structure, lot, parking area, loading bay, sign, landscaping or any other activity, is considered to be lawfully created with respect to zoning requirements if:

1. It was in existence on June 16, 1980 when the zoning ordinance was originally adopted, or,
2. Subsequent to June 16, 1980, it was permitted by the zoning ordinance either by right or by Special Permit and was in existence prior to the effective date of any amendment which rendered it non-conforming.

E. Uses by Variance Which are Not Non-Conforming:

A use, building, structure, lot, parking area, loading bay, sign, landscaping or any other activity which is not otherwise permitted and does not comply with this ordinance and exists due to the granting of a variance, is not a non-conforming situation, is not entitled to the treatments afforded by this section, and is bound by the conditions of the variance as granted.

F. Once in Conformity, or Closer to Conformity, Cannot Revert:

Once a use, building, structure, lot, parking area, loading bay, sign, landscaping or any other activity which had been non-conforming, is brought into conformity with this ordinance, it shall not be permitted to revert to nonconformity. Once a use, building, structure, lot, parking area, loading bay, sign, landscaping or any other activity which had been non-conforming, is brought closer to conformity with this ordinance, i.e. the amount or degree of nonconformity is reduced it shall not be permitted by right to revert to nonconformity with the provisions of this ordinance which is greater than the closest amount or degree of conformity which it has achieved (*Amended ATM, May 14, 2001, Article 29.*).

G. Change in Lot that Results in Non-Compliance.

No lot upon which there is a building or for which a building permit is in force shall be subdivided or otherwise changed in area or shape, except through public acquisition, so as to result in a violation applicable to either the lot or the building. A lot already non-conforming shall not be changed in area or shape so as to increase the degree of nonconformity with the requirements of this ordinance; however, a non-conforming lot may be changed in area or shape in order to move closer to conformity with the requirements of this ordinance. Said change shall be allowed by right. No building permit, Special Permit, Certificate of Occupancy, or Approval of a Subdivision Plan under the Subdivision Control Law shall be issued with reference to said transferred land until both the lot retained and the newly created lot(s) meet the requirements of this ordinance.

H. Nonconformity Resulting From Public Action.

If as a result of public action, a use, building, structure, lot, parking area, loading bay, sign, landscaping or any other activity no longer complies with this ordinance, it shall be considered to be non-conforming and entitled to the treatment afforded by this section, provided it was in compliance or lawfully non-conforming at the time of the public acquisition.

I. Discontinuance, Abandonment.

1. A non-conforming use or structure or other non-conforming situation is considered to be discontinued or abandoned whenever:
 - a. it is not used for a period of twenty-four (24) consecutive months, or,
 - b. it is abandoned (as defined in this ordinance)

2. Discontinuance or abandonment of a part of a non-conforming use, structure or situation shall not normally be considered to be evidence of discontinuance or abandonment of the whole, unless that part which is discontinued or abandoned is the part which causes the non-conformity.
3. The rights of a non-conforming use, structure, building, lot, parking space, loading bay, sign, landscaping or other situation are not affected by a change in ownership, tenancy or management unless such ownership, tenancy or management is specifically a condition of the issuance of the permit.

J. One and Two Family Dwellings (Amended ATM, May 14, 2001, Article 29.).

1. Non-Conforming Uses:

An existing non-conforming one-family or two-family owner occupied dwelling or structures accessory thereto which is non-conforming with respect to use may be enlarged or extended for use for the same purpose provided that a *Finding* is issued by the Zoning Board of Appeals (ZBA) that the extension or enlargement is not substantially more detrimental than the existing use to the neighborhood.

2. Non-Conforming Structures:

An existing non-conforming one-family or two-family dwelling or structure accessory thereto which is non-conforming with respect to minimum setback, may be enlarged or extended in any other direction in compliance with this ordinance, or in any other direction without encroaching any further than the original non-conformity, by the issuance of a building permit. That part of an existing non-conforming dwelling which is non-conforming only with respect to a minimum setback and/or density requirements of the Zoning Ordinance may not be enlarged or extended in that setback or requirement, except by a *Finding* issued by the Zoning Board of Appeals (ZBA) that:

- a. The degree of proposed non-conformity is not substantially more detrimental than the existing non-conformity to the neighborhood with particular consideration of abutting properties;
- b. The site coverage of the dwelling within the minimum setback is not increased to an extent so as to be substantially more detrimental than the existing non-conformity to the neighborhood, with particular consideration of abutting properties; and
- c. The Board determines that the extension or enlargement is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties.

K. Other than One and Two Family Dwellings.

1. Non-Conforming Uses:

A non-conforming use may be continued to the same degree and for the same purpose. An existing non-conforming use may be altered, expanded or extended for use for the same purpose or changed for use for a different purpose provided that a *Finding* is issued by the Planning Board as specified below:

The Planning Board may grant a *Finding* for alteration, change, expansion or extension of a non-conforming use provided that the Board determines that the alteration, change, expansion or extension is not substantially more detrimental than the current use.

2. Non-Conforming Structures:

An existing non-conforming building, other than a one-family or two-family dwelling, which is non-conforming with respect to minimum setback may be enlarged or extended in any other direction in compliance with this ordinance by the issuance of a building permit, **(and other permits as appropriate)** provided all other uses, structures, and activities on the lot comply fully

with the requirements of this ordinance. That part of an existing non-conforming structure which is non-conforming only with respect to a minimum setback and/or density requirements of the Zoning By-Law may not be enlarged or extended in that setback or requirements, except by a *Finding* issued by the Planning Board that:

- a. The degree of proposed non-conformity is not substantially more detrimental than the existing non-conformity to the neighborhood with particular consideration of abutting properties;
- b. The site coverage of the dwelling within that minimum setback is not increased to an extent so as to be substantially more detrimental than the existing non-conformity to the neighborhood, with particular consideration of abutting properties; and
- c. The Board determines that the extension or enlargement is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties.

An existing non conforming building, other than a one-family or two-family dwelling, which is non-conforming with respect to dimensional and/or density requirements of the Zoning by-law for the district in which said building is located, other than minimum setback, may not be enlarged or extended except by a *Finding* issued by the Planning Board.

L. Non-Conforming Lots.

Any lot which does not comply with the provisions of this by-law with respect to minimum lot area, minimum lot frontage, or minimum lot width or with the requirements then in effect at the time of recording or endorsement, whichever occurs sooner, shall not be subdivided or otherwise changed in area or shape, except through public action, so as to be in violation of the provisions of this ordinance. A lot already non-conforming with respect to those provisions may be changed to be made closer in compliance, but once brought closer into compliance; i.e., the amount or degree of nonconformity is reduced, it shall not be permitted to revert to noncompliance which is greater than the closest amount or degree of compliance which it had achieved. A lot, which is non-conforming, shall not preclude the issuance of permits allowed pursuant to Article V.

M. Non-Conforming Off Street Parking and Loading.

Existing Non-Conforming Parking Spaces, Loading Bays

Any off street parking spaces or loading bay in existence on the effective date of this ordinance or thereafter established, which serve a building or use, may not be reduced in number or changed in location or design contrary to the ordinance requirements so as to increase the degree of non-conformity with said requirements.

If the use of an existing structure or lot, which does not have sufficient parking or loading areas, including a use which has no off-street parking or loading area, is changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in this ordinance, and there is not increase in the net floor area, the following rules shall apply:

1. If there is a net increase in the number of required parking spaces or loading bays, that net increase shall be provided, which number shall not include any existing parking spaces or loading bays, or,
2. If there is a net decrease in the number of required parking spaces or loading bays, that lesser number shall be the new basis for determining whether, in the future, there is a net increase in the number of parking spaces or loading bays required.
3. If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading area, full compliance with the applicable parking requirements for the entire

building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.

N. Parking and Loading Requirements for a Building Destroyed, Damaged or Demolished.

If a building for which sufficient off-street parking or loading area as required under the standards of this ordinance, is not provided is destroyed, damaged or demolished by the owner, the new building may be reconstructed or replaced if otherwise permitted by this ordinance, without providing additional parking spaces or loading bays, provided the new use is the same type of use as the use before the destruction, damage or demolition, or is a type of use that requires the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage, or demolition, at least the same number of spaces or bays shall be provided (*Amended ATM, May 14, 2001, Article 29.*).

O. Repair, Reconstruction, Continuance.

Routine maintenance and repairs are permitted to a non-conforming structure, sign, parking space or loading bay or other non-conforming situation to maintain it in sound conditions and presentable appearance.

P. Reconstruction After Involuntary Destruction (By Right).

Any non-conforming use, structure, building, sign, parking space or loading bay or other non-conforming situation which is destroyed or damaged by explosion, collapse, fire, storm, natural disaster or other catastrophic event, any of which is beyond the control of the owner, may within three (3) years from the date of such damage or destruction, be reconstructed to the same extent as the original, provided there is no increase in the site coverage or the gross floor area or the degree of nonconformity and the reconstruction conforms to the current requirements of this ordinance to the maximum extent practicable in the opinion of the Building Inspector. In this context, to the maximum extent practicable shall consider extreme site conditions, such as steep grades, the presence of ledge or other unsuitable soil conditions, or the shape and configuration of the lot.

Q. Reconstruction After Destruction (By Finding).

The Planning Board may grant a finding for the reconstruction of a use, structure, building, sign, parking space or loading bay or other situation allowed by *Finding*, which is destroyed or damaged by explosion, collapse, fire, storm, natural disaster or any other catastrophic event, any of which is beyond the control of the owner or by the proposed voluntary action of the owner, to demolish, in whole or in part, in a manner different from the prior conditions, provided the Board determines that:

1. The degree of proposed non-conformity is not substantially more detrimental than the existing non-conformity to the neighborhood with particular consideration of abutting properties;
2. The site coverage of the dwelling within that minimum setback is not increased to an extent so as to be substantially more detrimental than the existing non-conformity to the neighborhood, with particular consideration of abutting properties; and the Board determines that the extension or enlargement is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties; and
3. The Board determines that the extension or enlargement is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties (**Amended – Special Town Meeting – June 24, 2002 – Article 2**).

R. Vesting of Rights During Adoption of Amendments.

1. A use, building, structure, lot, sign, parking space or loading bay or other situation which would comply with the provision of this ordinance at the time at which a building permit is issued or a

Special Permit is granted, but would not comply with a proposed amendment to this ordinance, shall be considered to be con-conforming and may be completed, continued, or maintained provided:

the building permit was issued or the Special Permit was granted before the first publication of notice of public hearing of the proposed amendment, and substantial physical construction or start of operations is begun within six (6) months of the issuance of the building permit or the grant of a Special Permit and is carried through to its completions as continuously and expeditiously as is reasonable. If the construction is not completed within eighteen (18) months of the issuance of the building permit or the grant of the Special Permit, the rights to non-conforming status shall cease and the construction shall comply with this ordinance, as amended.

2. The filing of an application for either a building permit or a Special Permit is not sufficient to vest rights. The building permit must be issued for the Special Permit must be granted prior to such first publication of notice.
3. In the event of the filing and subsequent approval of a definitive subdivision plan, an exemption from an amendment to this ordinance and a right to be treated under the previously existing provision of this ordinance may be vested, as set forth in MGL, Chapter 40A, Section 6.

S. Approval Not Required Plans.

1. In the event of the filing and subsequent endorsement of an "Approval Not Required" plan, referred to in Section 81P of Chapter 41, Sections 81K-81GG, the Subdivision Control Law, an exemption from an amendment to this by-law affecting the use of land only and a right to be treated under the previously existing provisions of this ordinance may be vested, as set forth in MGL, Chapter 40A, Section 6.
2. In the event that rights have been vested under a previous version of the Zoning ordinance, an owner may proceed as if that version of the Zoning ordinance applied to his/her property and he/she may use the most current versions of the Zoning ordinance, but must use either version of the Zoning ordinance fully and cannot select provisions of both versions.

Section 171.84 Mobile Homes: As used in this article the following terms shall have the meanings indicated:

Trailer: A vehicle used or intended to be used for human habitation, whether designed to be drawn by a motor vehicle or self-propelled, and any so-called automobile trailer or trailer coach, including any portable structure, means of conveyance or vehicle so designed, constructed and/or altered or converted in any manner as to permit occupancy thereof for dwelling purposes or sleeping purposes.

Trailer or Mobile Home Park: Any lot of land upon which two (2) or more trailer coaches or mobile homes occupied for dwelling purposes are located, and shall include any buildings, structures, fixtures, and equipment used in connection with trailers.

A. Use Restrictions:

No person shall park, store or occupy a trailer for living or business except as follows:

The owner of land may permit occupancy of said land by a non-paying guest for a period not exceeding twenty (20) days in a calendar year.

A trailer may be occupied by the owner of a lot or tract of land as a temporary dwelling incidental to the construction of a home. In no case shall the trailer be occupied for more than one (1) year, during which time the construction of the permanent dwelling is to be completed and the dwelling occupied.

A mobile home already legally existing on a lot within the town of Palmer may be replaced in accordance with the regulations of the Town of Palmer provided that the replacement mobile home meets or exceeds the value of the mobile home already existing on the lot.

B. Requisites for the Issuance of a Building Permit:

No building permit for such trailers or mobile home shall be granted unless the following conditions are met:

- (a) Only one (1) trailer or mobile home shall be placed on a lot.
- (b) The lot or tract of land on which the trailer is to be located shall contain a minimum of 20,000 square feet, with a minimum of 100 feet frontage on a public way (or in the case of the existing mobile home park a private way within the park.)
- (c) The trailer shall be set back at least seventy (70) feet from the centerline of a public way or private way on which the trailer is located.
- (d) No trailer or mobile home shall be located within fifty (50) feet of an existing building or dwelling.
- (e) A tract of land or a lot shall mean any parcel, regardless of its size, which is owned under single deed.

C. Exceptions:

The provisions of this Article shall not apply to a travel trailer or camping trailer stored or parked on a lot not intended for occupancy as a residence, overnight accommodations or business purpose on its location.

Section 171.85 Telecommunication Towers, Antennae and Facilities.

A. Purpose. The purpose of this regulation is to regulate the location and number of telecommunication towers and antennae, minimize their adverse visual effect through careful design, siting and vegetative screening, and encourage the shared or joint use of towers and facilities. These regulations are consistent with the Federal Telecommunications Act of 1996 in that they do not discriminate among providers of functionally equivalent services, do not prohibit or act to prohibit the provision of personal wireless services, and do not regulate the placement and construction of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with Federal Communications Commissions regulations regarding such emissions.

Telecommunication towers, antennae and facilities are permitted in all districts as outlined in Table of Use Regulations for Business and Residential Districts in this ordinance and as outlined in the Industrial Sections of this ordinance subject to special permit and site plan approval plus the following conditions (*Amended ATM, May 14, 2001, Article 29.*):

- a. To discourage the proliferation of telecommunication towers, shared use of tower structures is both permitted and encouraged. Placement of more than one tower on a lot may be permitted if all setbacks, design and landscape requirements are met for each tower. Applications for new towers shall be accompanied by documentation that no existing or planned tower or other structure can accommodate the applicant's antennae or transmitter. The application shall include documentation regarding the availability of any existing or approved telecommunication towers or other structures within the transmission area that meets the needs of the applicant.

It shall be a condition of any special permit issued under this regulation that the permit holder shall exercise good faith in allowing other providers to share space or co-locate on the site, provided that such shared use does not impair the technical level or quality of service. In the event that a dispute arises as to whether the permit holder has exercised good faith in accommodating other users, the Planning Board may require an independent technical study at the expense of either or both the permit holder and the applicant.

- b. Telecommunication towers are prohibited within existing Town and National Register Historic Districts, as well as along designated scenic roads, and if the Planning Board determines that the proposed location is within and will seriously degrade scenic view areas.
- c. The lot upon which a telecommunication tower is proposed must meet the minimum lot area requirements for the zoning district within which the lot is located.
- d. The tower and/or antenna shall be erected to the minimum height necessary to satisfy the technical requirements of the telecommunication facility. Documentation of the minimum height needed, prepared by a professional telecommunication systems engineer, shall accompany the

application for a special permit. Such documentation may include propagation modeling and/or test results.

- e. All new structures must meet the minimum setback requirements for the zoning district within which the subject lot is located, or be set back from all property lines a distance equal to 105% of the height of the structure whichever is greater. Guy anchors shall also meet the minimum setback requirements for the respective zone.

- f. Towers and antennae shall be of subdued, non-reflective color which shall blend with its surroundings.

- g. In addition to other applicable buffer area requirements of this Ordinance, landscape buffers shall be required around the perimeter of all structures, including guy anchors. Such landscape buffers shall include evergreen trees planted of sufficient height and planted at a sufficient distance to provide visual screening as determined during the site plan review process.

- h. Signal lights or illumination shall not be permitted unless required by the Federal Communications Commission or the Federal Aviation Administration.

- i. No advertising or signage, other than warning signs, shall be permitted on any tower.

- j. All unused communication towers shall be removed within twelve months of cessation of use. In the event that an unused tower is not removed within twelve (12) months of cessation of use the tower and associated facilities may be removed by the Town and the cost of removal assessed against the property. As a condition of special permit and site plan approval, the Planning Board may require a bond to insure removal of abandoned towers.

- k. No new or existing telecommunications service shall interfere with public safety telecommunications or with any existing television or radio signal. All applications for facilities under this regulation shall be accompanied by a study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

- l. Satellite dishes under ten (10) feet in diameter are exempt from this regulation when ground mounted or located on an existing building.

Section 171.86 Campgrounds:

A. Campground: A campground is a permitted use in the RR district subject to special permit and site plan review approval and subject to the following conditions:

- a. There shall be a minimum lot area of ten acres.
- b. The average density of the campground shall not exceed eight (8) campsites per acre.
- c. Each campsite shall have a minimum width of fifty (50) feet and a minimum area of 2,500 square feet.
- d. No building or campsite shall be located within 100 feet of any property line.
- e. Campsites for recreational vehicles over twenty (20) feet in length shall be grouped in an area separate from other campsites.
- f. Campground roads shall have a minimum width of ten (10) feet per travel lane and shall be readily traversible with a well-drained surface.
- g. Roads to be used by recreational vehicles over twenty (20) feet in length shall have a minimum internal radius of sixty (60) feet.
- h. Turnarounds shall be provided for all dead-end roads over 100 feet in length, and those to be used by recreational vehicles over twenty (20) feet in length shall have a minimum internal radius of sixty (60) feet.
- i. Water supply, sanitary conveniences and sewage facilities shall be provided in accordance with the Health and Sanitation Standards for Recreation Vehicle Parks of the National Fire Protection Association (Chapter 4 of NFPA Publication 501D, as amended.)
- j. If provided, electrical systems shall be in accordance with Chapter 6 of NFPA Publication 501D, as amended.
- k. Provision shall be made for fire safety in accordance with Chapters 5 and 7 of NFPA Publication 501D, as amended.

- l. Within the campground, one dwelling may be permitted for the residence of the campground owner or operator.

- m. Within the campground, the sale of camp supplies and a snack bar are permitted accessory uses provided they do not exceed 500 square feet in floor area and they are used only by persons using the campground.

Section 171.87 Flea Markets.

A. Flea Market: A flea market as defined in these ordinances is a permitted use subject to the issuance of a permit from **the Town Manager and the Zoning Enforcement Officer (ZEO)** subject to the following conditions:

- a. The applicant shall submit a letter stating the location of the market, the maximum number of vendors and the dates and hours of the market.
- b. The applicant shall also submit a letter from the property owner or owners in question, giving permission for the market to occur on the stated dates and hours.
- c. The applicant shall also submit a plan to scale, of the property in questions, showing the actual market location and parking area for both vendors and customers. All parking shall be off-street and located on the lot in question, or an abutting lot which, in the opinion of the Town Manager and ZEO, provides safe, convenient access to the market. If an abutting lot is used, written permission must also be submitted from the owner or owners of such lot as well. Parking shall be located on a sturdy, flat, all weather surface. In addition, the applicant must demonstrate safe ingress and egress between abutting streets and the proposed parking area.
- d. All flea markets shall occur during daylight hours between April 1, and October 31, and shall occur only on those dates and hours when no other business activity is occurring on the property in question. However, no property shall be the site of a flea market for more than fourteen (14) days in a sixty (60) day period
- e. Any food sales must first be approved by the Board of Health.
- f. No structures of any kind, other than canopies, portable sanitation units and one freestanding ground sign, shall be erected or installed on the property in question. Any canopies, portable sanitation facilities or sign shall be removed immediately after the conclusion of the market that day. Sign area and location shall be as required in Article XVII of these Ordinances for the District in question.
- g. The Town Manager may consult with the Department of Public Works Director, Police Department and/or Safety Committee for input on traffic patterns, volume and safety concerns.

Section 171.88 Large Scale Conference/Entertainment Facilities.

A. Purpose. The purpose of this regulation is to regulate conference and entertainment facilities that are large in scale and attract visitors from beyond the Town's and even the region's boundaries. Such facilities may be business or entertainment oriented and may provide ancillary services that are customarily associated with the principal use.

Large-scale conference/entertainment facilities are permitted in the GB, HB and IND-A zoning districts subject to approval of a special permit and site plan review and subject to the following conditions:

- a. The minimum lot area shall be five (5) acres for large-scale conference facilities and fifteen (15) acres for large-scale entertainment facilities (or a combination facility.)
- b. Public water and public sewer shall serve the site.
- c. All structures and outdoor activities shall be located a minimum of 100 feet from any property line.
- d. The maximum height of any structure shall not exceed that allowed in the applicable zone, except where for each additional foot of setback from all property lines, an additional one foot of height may be achieved to a maximum of one hundred (100) feet, except as noted hereafter, any structure proposed over one hundred (100) feet in height must be so noted in the special permit application, which shall be accompanied by a detailed visual impact analysis to determine whether or not the proposed structure would be widely seen and be a negative impact on the Town's landscape or on the neighborhood in which it will be located. Structures judged to have a negative impact shall not be approved by the Planning Board.
- e. The minimum lot width and depth shall be 400 feet. Because of the large number of visitors that may be attracted, these facilities shall be located where primary access to and from the site is via arterial streets or State highways. The special permit application shall be accompanied by a detailed traffic study which projects how much traffic will be generated on both a daily and peak hour basis and probable travel routes to the site.
- f. In approving the plan, the Board may approve waivers of Article XVIII, Off Street Parking and Loading regulations, in terms of the number of spaces required, the location of spaces, and the surfacing of spaces depending upon the type and scale of the proposed use as long as the Board finds that the waiver will be consistent with public safety and convenience.

- g.** The proposed facility shall not produce noise levels that will negatively impact upon existing residential neighborhoods. This includes noise produced by the use or activity itself, from the participants or visitors to the site, from loudspeakers, or from any other source at, or associated with, the facility. The Board may require a noise projection study to be performed or submitted. In general, no facility shall emit noise beyond the boundaries of the subject property which will be received by

residentially used or zoned land that exceeds 70 dBA during the day or 50dBA after 10:00 PM and before 7:00 AM. The Board may limit hours of operation of a use in the interest of minimizing or eliminating nighttime noise.

- h.** Outdoor lighting at the proposed facility shall not spill over beyond the site's property boundaries and shall be the minimum intensity necessary to adequately and safely light the facility, its parking lot and its access drives.
- i.** The maximum size of a freestanding sign shall not exceed 100 square feet. No flashing signs, neon lighting or signs that are lit from within shall be permitted. All lighting must be exterior lit white light only. All other requirements of Article XVII Signs shall apply.
- j.** A landscaped buffer with a minimum of seventy-five (75) feet width shall be provided along all property lines. The Board may require an increased buffer based upon the size, intensity and location of the facility. A detailed buffer plan must be submitted with the application for Special Permit and Site Plan Approval. All requirements of Article XVI – Landscaping, Screening and Buffers must be adhered to.

Section 171.89 Accessory Dwelling Units.

A. Accessory dwelling units are allowed in certain situations to:

- Create new housing units while respecting the look and scale of single-dwelling neighborhoods;
- Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- Allow more efficient use of existing housing stock and infrastructure;
- Provide a mix of housing that responds to changing family needs and smaller households;
- Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- Provide a broader range of accessible and more affordable housing.

B. Where These Regulations Apply:

An accessory dwelling unit may be added to a house, attached house, or manufactured home in an R zone only as indicated in Article VII Use Regulations and the Tables of Use Regulations.

C. Design Standards:

- a. **Purpose.** Standards for creating accessory dwelling units address the following purposes:
 - Ensure that accessory dwelling units are compatible with the desired character and livability of Palmer's residential zones;
 - Respect the general building scale and placement of structures to allow sharing of common space on the lot, such as driveways and yards;
 - Ensure that accessory dwelling units are smaller in size than houses, attached houses, or manufactured homes; and
 - Provide adequate flexibility to site buildings so that they fit the topography of sites.
- b. **Generally.** The design standards for accessory dwelling units are stated in this section. If not addressed in this section, the base zone development standards apply.

D. Requirements for all accessory dwelling units. All accessory dwelling units must meet the following:

Creation. An accessory dwelling unit may only be created through the following methods:

- a. Converting existing living area, attic, basement or garage;
- b. Adding floor area;
- c. Constructing a new house, attached house, or manufactured home with an internal accessory dwelling unit.

Other uses. An accessory dwelling unit is prohibited in a house with a Home Occupation except when the accessory dwelling is for a family member.

Location of entrances. Only one entrance to the house may be located on the front facade of the house, attached house, or manufactured home facing the street, unless the house, attached house, or manufactured home contained additional front doors entrances before the conversion accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.

E. Parking.

a. Purpose. The parking requirements balance the need to provide adequate parking while maintaining the character of single-dwelling neighborhoods and reducing the amount of impervious surface on a site. More parking is required when a vacant lot is being developed because generally, the site can more easily be designed to accommodate two parking spaces while minimizing impervious surface. In the Village Center Districts where an accessory dwelling unit is being added to a site with an existing dwelling unit, it may be permissible to not require additional impervious surface if adequate on-street parking is available such as in a municipal lot.

b. The following parking requirements apply to accessory dwelling units. All parking must meet the requirements of Article XVIII Parking Standards:

1. No additional parking space required. No additional parking space is required for the accessory dwelling unit if it is created on a site with an existing house, attached house, or manufactured home.

2. One additional parking space required. One additional parking space is required for the accessory dwelling unit as follows:

- ◆ When the accessory dwelling unit is created at the same time as the house, or manufactured home.

F. Maximum size. The size of the accessory dwelling unit may be no more than 33% of the living area of the house, attached house, or manufactured home or 800 square feet, whichever is less.

G. Additional requirements for accessory dwelling units created through the addition of floor area. Accessory dwelling units created through the addition of floor area must meet the following design standards:

- ◆ Exterior finish materials. The exterior finish material must be the same or visually match in type, size and placement, the exterior finish material of the house, attached house, or manufactured home.
- ◆ Roof pitch. The roof pitch must be the same as the predominant roof pitch of the house, attached house, or manufactured home.
- ◆ Trim. Trim on edges of elements on the addition must be the same in type size and location as the trim used on the rest of the house, attached house, or manufactured home.
- ◆ Windows. Windows must match those in the house, attached house, or manufactured home in proportion (relationship of width to height) and orientation (horizontal or vertical).
- ◆ Eaves. Eaves must project from the building walls the same distance as the eaves on the rest of the house, attached house, or manufactured home.

Section 171.90 Bed & Breakfast Facilities.

A. Purpose:

This Article provides standards for the establishment of bed and breakfast facilities. The regulations are intended to allow for a more efficient use of large, older houses in residential areas if the neighborhood character is preserved to maintain both the residential neighborhood experience and the bed and breakfast experience. These regulations enable owners to maintain large residential structures in a manner which keeps them primarily in residential uses. The proprietor can take advantage of the scale and often the architectural and historical significance of a residence. The regulations also provide an alternative form of lodging for visitors who prefer a residential setting.

B. Description:

Bed and breakfast facility. A bed and breakfast facility is one where an individual or family resides in a home and rents bedrooms to guests.

C. Where These Regulations Apply:

These regulations apply to bed and breakfast facilities in the residential zones where permitted as outlined in Section 171.55 Table of Use Regulations – Residential Zones and Section 171.62 Table of Use Regulations – Business Zones.

D. Use-Related Regulations:

a. Accessory use. A bed and breakfast facility must be accessory to a Household Living use on a site. **This means that the individual or family who operates the facility must occupy the house as their primary residence.** The house must be at least 5 years old before a bed and breakfast facility is allowed.

b. Maximum size. Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests.

c. Employees. Bed and breakfast facilities may have non-resident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the Special Permit. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited and/or monitored as part of a Special Permit approval.

E. Services to guests.

1. Food services may only be provided to overnight guests of a bed and breakfast facility.

F. Meetings and social gatherings.

1. Commercial meetings. Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, are prohibited at a bed and breakfast facility.
2. **Private social gatherings.** Private social gatherings for 10 or fewer guests are allowed without limit as part of a normal Household Living use at the site. All participants in the social gathering are counted as guests except for residents.
3. Historical landmarks. A bed and breakfast facility which is located in a historical landmark and which receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as either a commercial meeting or a private social gathering.

G. Site-Related Standards:

- a. **Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, and overlay zone as applicable.
- b. **Appearance.** Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes which will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces within the front yard setback, paving of required setbacks, and commercial-type exterior lighting.
- c. **Signs.** Signs must meet the requirements of Article XVII Signs (c) Signs Permitted in any "R" District." (*Amended ATM, May 14, 2001, Article 29.*)

H. Site Plan Approval:

Bed and breakfast facilities require a site plan approval. The procedure for this review is outlined in Article V Administration and Enforcement. The approval criteria are stated in this section.

I. Monitoring:

All bed and breakfast facilities must maintain a guest logbook. It must include the names and home addresses of guest's, guest's license plate numbers if traveling by car, dates of stay, and the room number of each guest. The log must be available for inspection by the Zoning Enforcement Officer or Designated Agent of the Town of Palmer upon request.

J. Pre-Established Bed and Breakfast Facilities:

a. Facilities without a revocable permit. Bed and breakfast facilities that were operating before the date of adoption of this Article and which did not receive a permit, may continue to operate as an approved use if the operator can show proof that the operation was established prior to that date. The requirements for verification are listed below.

1. The facility was operating with a Town business license from the Town of Palmer, Town Clerk's Office.
2. The facility paid taxes as required by the State or Federal Government for this facility.

3. Other official documentation can be provided to the Planning Board office sufficient to verify the operation of this facility.

b. Alterations and Expansions. The approved conditional use status provided for in Subsection A. above applies only to the number of bedrooms, and size of facility that existed on the date of adoption of this Article. Any expansions of building area or alterations, that increase the intensity of the facility, are not allowed unless approved through a site plan approval as provided in Article V.

Section 171.91 Drive-Through Facilities.

A. Purpose:

The regulations of this section are intended to allow for drive-through facilities by reducing the negative impacts they may create. Of special concern are noise from idling cars and voice amplification equipment, lighting, air pollution and queued traffic interfering with on-site and off-site traffic and pedestrian flow. The specific purposes of this chapter are to:

- Reduce noise, lighting, air pollution and visual impacts on abutting uses, particularly residential uses;
- Promote safer and more efficient on-site vehicular and pedestrian circulation;
- Reduce conflicts between queued vehicles and traffic on adjacent streets.

B. When These Regulations Apply:

Uses. The regulations of this chapter apply to all uses that have drive-through facilities.

1. Site development. The regulations of this chapter apply only to the portions of the site development that comprise the drive-through facility. The regulations apply to new developments, the addition of drive-through facilities to existing developments, and the relocation of an existing drive-through facility. Drive-through facilities are not a right; the size of the site or the size and location of existing structures and abutting structures may make it impossible to meet the regulations of this section. In addition drive through facilities must comply with all other requirements of the base zone and/or overlay zone that the property is located in

2. Parts of a drive-through facility. A drive-through facility is composed of two parts - the **stacking lanes** and the **service area**. The stacking lanes are the space occupied by vehicles queuing for the service to be provided. The service area is where the service occurs. In uses with service windows, the service area starts at the service window. In uses where the service occurs indoors, the service area is the area within the building where the service occurs. For other development, such as gas pumps, air compressors, vacuum cleaning stations, the service area is the area where the vehicles are parked during the service.

C. Setbacks and Landscaping:

All drive-through facilities must provide the setbacks and landscaping stated below.

- A. **Abutting an R zone.** Service areas and stacking lanes must be set back 30 feet from all lot lines which abut R zones. The setback must be landscaped to at least the standard as stated in Article XVI Landscaping, Screening and Buffers.

- B. **Abutting a B, I or VC zone.** Service areas and stacking lanes must be set back 20 feet from all lot lines which abut B or I zones. The setback must be landscaped to at least the standard as stated in Article XVI Landscaping, Screening and Buffers.

- C. **Abutting a street.** Service areas and stacking lanes must be setback 50 feet from all street lot lines. The setback must be landscaped to at least the standard as stated in Article XVI Landscaping, Screening and Buffers.

D. Vehicular Access:

All driveway entrances, including stacking lane entrances, must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.

E. Stacking Lane Standards:

- 1. These regulations ensure that there is adequate on-site maneuvering and circulation areas, ensure that stacking vehicles do not impede traffic on abutting streets, and that stacking lanes will not have nuisance impacts on abutting residential lands.

a. Gasoline pumps. A minimum of 30 feet of stacking lane is required between a curb cut and the nearest gasoline pump.

b. Other drive-through facilities.

- 1. Primary facilities. A minimum of 150 feet for a single stacking lane or 80 feet per lane when there is more than one stacking lane, is required for all other drive-through

facilities. A stacking lane is measured from the curb cut to the service area. Stacking lanes do not have to be linear.

2. Accessory facilities. A stacking lane is not required for accessory facilities where vehicles do not routinely stack up while waiting for the service. Examples are window washing, air compressor, and vacuum cleaning stations.

Stacking lane design and layout. Stacking lanes must be designed so that they do not interfere with parking and vehicle circulation.

Stacking lanes identified. All stacking lanes must be clearly identified, through the use of means such as striping, landscaping, and signs.

Section 171.92 Self Service Storage.

A. Purpose:

Self-Service Storage uses have some characteristics in common with both commercial use and industrial uses. This chapter provides regulations so that Self-Service Storage uses can be appropriately sited in either industrial zones or some commercial zones, while maintaining the desired character and function of the specific zones. In general, Self-Service Storage uses are similar to other commercial uses in that they provide a service to residential and business uses. The character of their development is often more similar to industrial buildings and their low activity level does not add to the vitality of a commercial area.

B. Use Regulations:

Other uses on the site such as the rental of trucks or moving equipment must meet the use and development standards of the base zone or overlay zone.

C.	Development	Standards:
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The development standards of the base zone apply unless the standard is superceded by regulations in this section.

a. Purpose. The special development standards in the HB and IND zones are intended to allow self-service storage facilities to locate on certain sites in these zones where they can be close to the residential and business uses that they serve. At the same time, the development standards direct their location to sites that do not have major frontage on commercial streets. This prevents large sections of the commercial streets from being developed with uses that have extremely low activity levels which detract from the vitality and desired interaction among commercial uses in the area. This also allows them to locate on odd-shaped or infill sites that are difficult to develop for many commercial uses.

b. Storage areas. The maximum size of individual storage areas (each individual storage unit within the building) in HB and IND zones is 500 square feet (*Amended ATM, May 14, 2001, Article 29.*).

c. Internal circulation. The internal circulation between buildings must be adequate to provide access for emergency vehicles.

(Amended ATM – June 16, 2003 – Article 11)

d. Parking. For parking requirements see Article XVIII, Parking and Loading.

e. Outside Storage. Outside storage shall be prohibited. Any large exterior parking stalls for boats, campers, etc. shall be to the rear of the property and adequately screened so as not to be visible from the street or abutting properties.

D. Self-Service Storage Design Guidelines:

Purpose. Design review is required for new buildings in the HB and IND zones to ensure that the development has a high design quality appropriate to the designed character of the zone and to avoid the monotonous look of many industrial-style buildings. These design guidelines are used to review new Self-Service Storage uses in the HB and IND zones. In addition to all other

required plans, an elevation and façade plan must be submitted at the time of application for a Special Permit/Site Plan Approval.

a. Building and roof design. The building and roof are designed to be compatible with surrounding development, especially nearby residential uses. Considerations include design elements that break up long, monotonous building or rooflines and elements that are compatible with the desired character of the zone.

b. Building materials. The materials used for buildings, roofs, fences and other structures are compatible with the desired character of the zone and are visually pleasing, especially near residential uses.

c. Street facades. The design and layout of the street side of the site provides a varied and interesting facade. Considerations include the use of setbacks, building placement, roof design, variations in building walls, fencing, other structural elements, and landscaping.

d. Landscaping. The landscaping on the site provides appropriate transition from public to private spaces, separates and buffers the buildings from other uses especially abutting residential uses, and provides visual relief from stark, linear building walls.

e. Fencing. Any proposed fencing is designed to be compatible with the desired character of the area and is especially sensitive to abutting residential uses. Use of rolled razor wire or barbed wire is discouraged.

Security. The perimeter of the site is designed to provide adequate security for both the site and abutting sites. Considerations include fence and wall materials and placement, type and placement of landscaping including thorny plant