

ZONING ORDINANCE

ARTICLE I. / PREAMBLE AND TITLE

Section 101 / Preamble:

Pursuant to the authority conferred by Chapter 674, Sections 16-21, New Hampshire Revised Statutes Annotated, as amended, for the purpose of promoting the health, safety, morals, prosperity, convenience and the general welfare of the inhabitants of the incorporated Town of Marlow, New Hampshire, by securing safety from fire, panic, and other dangers, providing adequate areas between buildings and various rights-of-way, the promotion of efficiency, economy and good civic design in development, protection of the value of homes and lands, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements, and by other means, and for the purpose of implementing the land use concepts outlined in the *Comprehensive Plan: Marlow, New Hampshire: 1983* and updated in 2003. Now therefore the following ordinance is hereby enacted by the voters of the Town of Marlow, New Hampshire, in official Town Meeting convened, March 11, 1986, and amended in official Town Meetings of 1990, 1992, 1993, 1994, 1995, 1999, 2005.

Section 102 / Title:

This ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of Marlow, New Hampshire, 1986 as amended.” This ordinance is a new ordinance and replaces the “Zoning Ordinance for Town of Marlow, N.H.”, as amended, as adopted by the voters of Marlow at the annual Town Meeting of March, 1970.

ARTICLE II. / DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

Section 201 / Word Definitions:

The word **person** includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The word **lot** includes the word **parcel**.

Section 202 / Term Definitions:

Boarding House, Lodging House, Rooming House:

Any dwelling with less than twenty sleeping rooms in which individual persons are housed or lodged, with or without meals.

Commercial Use:

The conducting of business involving the sale of one or more products, the provision of one or more services, or any combination thereof.

Dwelling:

A building, or part of a building, which contains living and sleeping accommodations for permanent occupancy.

Dwelling, one family:

A detached building designated for, or occupied solely as, a dwelling by one family.

Dwelling, two family:

A detached building designated for, or occupied solely as, a dwelling by two families living independently of each other.

Family:

Any number of persons related by blood or by marriage, or not more than six persons not related by blood or by marriage, living together as a single housekeeping unit.

Frontage:

The width of a lot measured along its common boundary with a Class 5 or better approved public street.

Kennel:

The housing or possession of five (5) or more dogs beyond three (3) months of age. The animals must be licensed and the facility or premises is subject to initial and subsequent periodic inspections by the Animal Control Office to insure compliance with relevant provisions of the Federal Animal Welfare Act.

Large Scale Retail Development:

Any retail store(s) whether located in a single building or combination of buildings which exceed(s) 12,000 square feet.

Livestock - Animals:

Including birds, that are kept for profit through the sale of their milk, offspring, flesh, hair, wool, fur, pelt, or eggs.

Lot:

A plot or parcel of land occupied, or capable of being occupied, in conformity with these Regulations by one principal building and the accessory buildings or uses customarily incident as to it, including such open spaces as are required by these Regulations. In the case of multiple dwellings, row dwellings, institutional, industrial or commercial buildings, a group of buildings under one ownership may be considered as occupying the same lot.

Lot of Record:

A lot which is part of a subdivision of record in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Mobile Home:

The term “mobile home” shall mean any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein.

Motel:

A building or group of buildings providing lodging for persons (intended primarily for accommodation of transients) generally having private outside entrance for each room or suite of rooms and for each of which rooms or suite of rooms automobile parking is provided on the premises.

Non-Conforming Use:

A use which lawfully occupied a building or land at the effective date of this ordinance or amendments thereto and that does not conform to the use regulations of the district in which it is located.

Recreational Camp:

A building on permanent or temporary foundation without normal heating, plumbing and electrical facilities and used at infrequent times as basic living accommodations for recreational purposes. Such a building shall not be used for permanent dwelling purposes.

Setback:

The open space required between any building or structure and the street or property lines. The setback from a given line shall be interpreted to be the average distance, measured at right angles to that line, to the extreme corner of the nearest side of the building or structure.

Sign:

Any device for visual display which is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any governmental agency or civic or religious organization. For the purposes of these regulations, signs shall be considered to be improvements and shall be subject to all regulations applicable to improvements.

Special Exception:

A Special Exception permits the inclusion into the zoning pattern of uses considered to be essentially desirable, but where the nature of the use is such that its location must be considered in light of special restrictions or conditions tailored to fit the unique problems which the use presents, and relates to a specific use in a specific location. A Special Exception may be permitted under this ordinance only upon application to the Board of Adjustment and subject to the approval of the Board, only in cases where the words “Special Exception” in this ordinance pertain.

Square Feet:

Useable floor space in buildings.

Street or Public Street:

A public right-of-way which the town or state has the duty to maintain regularly or a right-of-way shown on a subdivision plat approved by the Planning Board and recorded with the County Register of Deeds which provides the principal means of access to the abutting property.

ARTICLE III. / GENERAL PROVISIONS

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

Section 301 / Use:

Land shall be used and improved only in accordance with these regulations:

Section 302 / Principal Use of Lots:

There shall be only one principal use or structure on any lot of record unless otherwise specifically provided for by this ordinance.

Section 303 / Lots Lying in More than One District:

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

Section 304 / Non-Conforming Uses:

Any non-conforming use of land or buildings lawfully existing at the effective date of these regulations, or of any amendment thereto, may be continued, and any building so existing which was designed, intended for, arranged, or is devoted to a non-conforming use, may be structurally altered and the non-conforming use therein continued, all subject to the following requirements:

304.1

A non-conforming use may be changed to a conforming use, but may not then be changed back to a non-conforming use.

304.2

A non-conforming use which has been discontinued for a period of one year shall not thereafter be resumed.

304.3

A non-conforming use may be enlarged or extended only by special exception of the Marlow Zoning Board of Adjustment.

304.4

When a building in which there is a non-conforming use is damaged or destroyed by fire, explosion, act of God, or act of the public enemy, it may be restored and the non-conforming use continued, provided that it covers no more land area and has no greater cubical content or height.

304.5

Nothing in these Regulations shall prevent the strengthening or restoration to a safe or lawful condition of any part of a building or structure declared unsafe by any duly authorized official or representative of the Town.

Section 305 / Existing Lots:

Provided that safe and adequate disposal of sewage and a safe water supply can be provided without endangering the health and safety of adjoining residents, nothing in these Regulations shall prevent the construction of a permitted building or the establishment of a permitted use on a lot containing less than the prescribed area or width at the time of adoption hereof, or any pertinent amendment hereto, if it was:

305.1

Owned separately from any adjoining lot and recorded in the land records of the Cheshire County Registry of Deeds,

OR

305.2

Shown on a plan or subdivision approved by the Marlow Planning Board and recorded in the Cheshire County Registry of Deeds,

OR

305.3

One of a group of adjacent lots of record under the same ownership on the effective date of these Regulations.

Section 306 / Prohibited Uses:

No building or improvement shall be erected, used or maintained, and no lot shall be used or maintained for any use, trade, business or process which is obnoxious or offensive by reason of gas, odor, dust, smoke, vibration, liquid discharge, illumination, noise or appearance, or which constitutes a public hazard whether by fire, explosion or otherwise.

Section 307 / Off-Street Parking:

At least one off-street parking space shall be provided and satisfactorily maintained for all uses as noted below:

307.1

Dwelling - one per dwelling unit.

307.2

Church, Auditorium - one per four seats.

307.3

Motel, Inn, Boarding House - one per guest sleeping room.

307.4

Restaurant, Eating Place - one per four seats.

307.5

Financial Institutions, Offices, Retail Stores, Shop - one per 100 square feet of floor area.

307.6

Hospital, Sanitarium, Clinic, Nursing or Convalescent Home - one per staff member on the largest shift, plus one for every bed.

307.7

Converted Single Family Home - one per each dwelling unit provided by the conversion.

307.8

Industrial Uses - one space for each two employees on the largest shift.

307.9

Commercial Zone I & II - Also see Section 408.2 (5) & (6) and 408.3 (5) & (8) respectively.

Section 308 / Off-Street Loading:

Off-street loading facilities shall be provided for all institutional, commercial and industrial uses. These facilities shall be located so that delivery vehicles are parked outside of the street right-of-way.

Section 309 / Signs:

Signs as defined in Article II shall be permitted only in accordance with the following provisions.

309.1

All signs must be constructed of durable materials and shall be maintained in good condition and repair at all times.

309.2

In any residential district, a sign not exceeding four square feet is permitted which announces the name, address, or professional or home business of the occupant of the premises on which said sign is located.

309.3

A bulletin board not exceeding twenty-four square feet is permitted in connection with any church, school or similar public structure.

309.4

A temporary real estate or construction sign, not exceeding twenty-four square feet is permitted on the property being sold, leased or developed. Such sign shall be removed promptly when it has fulfilled its function.

309.5

A business sign shall be permitted in connection with any legal business or industry located on the same premises and meeting the following requirements:

- A. Two signs are permitted for any legally established business, one free standing, the other attached to the building.
- B. The primary purpose of the sign shall be for identification and not for advertising and may state only the owner, trade names, trademarks, products sold and/or the business or activity conducted on the premises on which the sign is located.
- C. Signs shall not extend above the roof of the building. The height of a free-standing sign shall not exceed 20 feet.
- D. Illuminated signs shall be shielded in such a way as to produce no glare, undue distraction, confusion or hazard to the surrounding area or to vehicular traffic. Illumination shall be properly focused upon or from within the sign itself.
- E. Signs which are animated, flashing or with intermittent illumination are prohibited.
- F. Signs shall not project over public right-of-way or property lines.
- G. Maximum square footage of any sign shall be 50 square feet or a total of one hundred square feet for the two signs.
- H. Commercial Zone I & II - Also see Section 408.2 (8) and 408.3 (7) & (8) respectively.

309.6

Political signs shall be permitted in accordance with state legislation.

309.7

Any sign which becomes in disrepair shall be removed upon order of the Building Inspector if not repaired after 30 days notice.

ARTICLE IV. / DESIGNATION OF ZONING DISTRICTS

DISTRICT BOUNDARIES:

The **Village District** is that area encompassed by Cross Street on its westerly side, then eastward along Forest Road to Newport Road, then north along Newport Road, then eastward along the northern boundary of Lot 37 & 38, Map 202 of the Marlow Town Property Maps dated 4/1/92, then southward along the west shore of Village Pond, then eastward along Mansfield Road, then south along the east boundary of Lot 79, Map 203 of the Marlow Town Property Maps, continuing in a southward direction along the east boundary of Lots 81 & 82, Map 203, of the Marlow Town Property Maps, then west along the south boundary of Lot 82, Map 203 of said maps, continuing east across Route 10 and the Ashuelot River to Mill Street, and then north along Mill Street to Main Street (Church Street), then eastward along Main Street to Cross Street, the point of beginning.

R-2 District.

The northern boundary of R-2 extends east and west along the northern boundary of Map 408. The boundary is extended westward to Route 10 and eastward to the Marlow-Washington town line.

R-5 District.

This District extends westward along Route 123 to the intersection of Gustin Pond Road, then north along Gustin Pond Road to the intersection of Newell Pond Road and Honey Road.

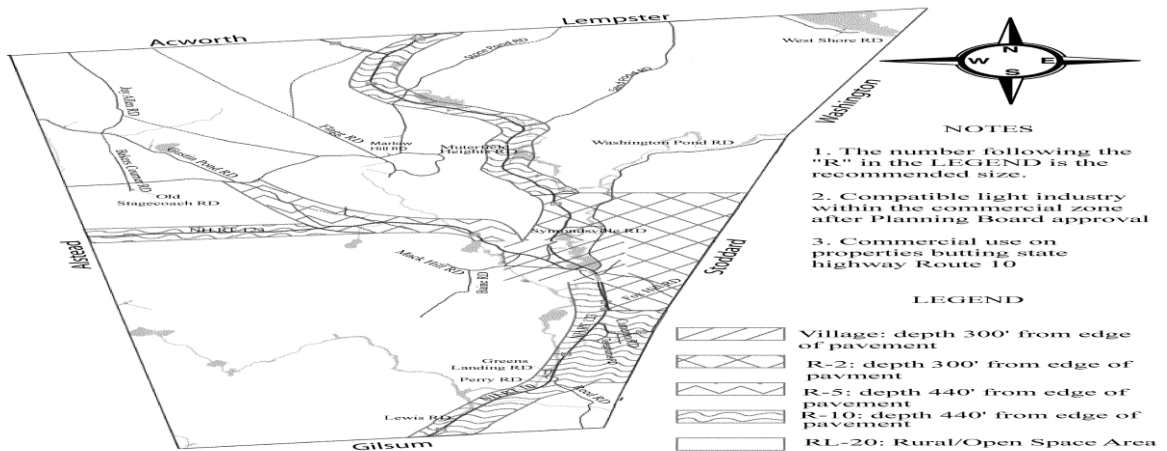
R-10 District.

The southern boundary of R-10 follows the southern boundary of Lot 28 on the Marlow Property Map 412 dated 4/1/94. This boundary extends from Route 10 eastward to the Marlow-Stoddard town line. R-10 also includes the area from the intersection of Gustin Pond Road on Route 123, then westward along Route 123 to the Alstead-Marlow town line. It also includes all of Route 10 from the Gilsum Town Line to the Lempster Town Line (except for the area labeled Village or R2) for a depth of 440’ from the edge of the pavement.

The boundary between R-10 and R-2 on Route 10 south of Marlow follows the northern property boundaries of Lots 13 & 17 shown on the Marlow Property Map 409 dated 4/1/94. This boundary extends from Route 10 eastward to the Marlow-Stoddard town line.

Section 401 / Zoning Districts:

The Town of Marlow is hereby divided into the following named Districts as shown on the “Zoning Map of the Town of Marlow, New Hampshire” dated March 12, 1986 which, with all explanatory matter therein shall be considered a part hereof.



| | | | |
|------------------------------|--------|-----------------------------------|---------|
| 1. Village District | (V) | 5. Rural Lands District | (RL-20) |
| 2. Residential District – 2 | (R-2) | 6. Commercial District | (Comm) |
| 3. Residential District – 5 | (R-5) | 7. Wetlands Conservation District | (WC) |
| 4. Residential District – 10 | (R-10) | | |

Section 402 / District Boundaries:

Where uncertainty exists with respect to the boundaries of any of the aforesaid Districts as shown on the Zoning Map, the following rules shall apply:

402.1 / Property Lines

If the District Boundary is a property line, the boundary shall follow such property line as described in the Tax Assessor's records at the effective date of these regulations.

402.2 / Measured Lines

Unless otherwise indicated, if a District Boundary is stated by a measured distance from a street, such distance shall be measured at right angles from the center of such street.

402.3 / Streets, Rivers, Brooks

If opposite sides of a street, river or brook are in different Districts, the centerline of the street, river or brook shall be the District Boundary.

402.4

Where interpretation is necessary, or in the case of uncertainty the Marlow Planning Board shall determine the location of the District Boundary.

Section 403 / Village District:

403.1 / Objective and Characteristics

The purpose of this district is to provide for a rural "village" image through mixed residential, governmental, and commercial uses at a higher density than in other districts. However, as no public water supply or sewer system exists in Marlow, lots must be of sufficient size to accommodate on-site water supply and septic tanks and drainage fields, and should not have severe limitations for on-site sewage disposal.

403.2 / Historic Area

The center of Marlow is termed a historic area and all construction in this area must be consistent with the architecture of the present buildings. This historical area shall encompass a ½ mile radius from Jones Hall (the Town Hall).

403.3 / Permitted Uses:

- One-family dwellings, excluding mobile homes.
- Two-family dwellings.
- Local government functions.

- Professional offices such as those of dentists, lawyers, physicians, surgeons or artisans. Private offices, when located in the same dwelling used by the person as his private residence and providing that not more than three persons shall be regularly engaged in the activity. Such offices shall not alter the appearance and character of the residence and no major structural changes shall be made in the exterior.
- Customary home occupations which historically are recognized by substantial and long practice as having been carried on in a residence by the occupant thereof, providing that:
 1. Such occupations be located within the same structure used as a residence by the proprietor, or in an accessory building thereto.
 2. Such operations employ no more than five persons not resident on the premises.
 3. Such operations not utilize more than one-third of the total enclosed floor area of the structure and not alter the exterior of the structure.
- Small trades or other business employing no more than five employees and providing that all equipment and materials are stored under cover.
- Educational, church, or public and semi-public uses, provided that they are not carried on for profit.
- Boarding schools or boarding camps.
- Other preferred village district uses shall include:
 1. Post office
 2. Banking and financial institutions
 3. Retail or wholesale business establishments
 4. Restaurant, cafeteria, bakery, and confectionery shops
 5. Personal service shop or service establishment
 6. Bed and breakfast homes

Section 404 / Residential - (R-2) District:

404.1 / Objective and Characteristics

The purpose of this district is to provide an area for residential use in a rural setting, with a higher density than will be found in the rest of the rural area of the community. Since public water and sewer services are not available, the land should not have severe limitations for on-site sewage disposal and the lots should be sufficient size to provide space for septic tanks and drainage fields, with provisions for the necessary spacing between these uses.

404.2 Permitted Uses:

All permitted uses as listed in **403.3** plus the following additional uses:

- Mobile homes.
- Country inns, and tourist homes.
- Rest, convalescent, lodging, boarding or rooming houses, provided they serve no more than twenty persons.
- Funeral homes.
- Buildings and structures for the sale of farm products or products of home industry, provided that the majority of said products are raised or produced on the premises by the occupants, and that advertising shall be limited to those products. Such buildings and shelters shall be located at least 40 feet from the street right-of-way. Off-street parking shall be provided for at least five automobiles.

Section 405 / Residential - (R-5) District:

405.1 / Objective and characteristics

The purpose of this district is to provide an area for medium density residential use in a rural setting. Since public water and sewer services are not available, the land should not have severe limitations for on-site sewage disposal and the lots should be of sufficient size to provide space for septic tanks and drainage fields, with provisions for the necessary spacing between these uses.

405.2 / Permitted uses:

All permitted uses as listed in **403.3** and **404.2** plus the following additional uses:

- Agricultural, livestock, or poultry farming, greenhouses or nurseries, provided that no objectionable materials be stored less than 100 feet from any property line.
- Forestry, tree farms, woodlots, portable woodworking mills and machinery incident thereto.
- Public utilities buildings.
- Cemeteries.
- Kennels

Section 406 / Residential - (R-10) District:

406.1 / Objective and Characteristics

This district provides for low density, rural living.

406.2 / Permitted uses:

All permitted uses as listed in **403.2, 404.2, 405.2** plus the following additional uses:

- Veterinary practices.
- Boarding and commercial kennels.
- Riding stables or similar riding establishments, provided that they be located on at least ten acres, or one-half acre per horse, whichever is greater.
- Telecommunication Towers by special exception only.
- Commercial Wind Farms by special exception only.

Section 407 / Rural Lands (RL) District:

407.1 / Objective and Characteristics

The object of this district is to protect the most fragile and remote land in the town from development and to help assure that the land may be used for forestry and, where appropriate, agriculture. Its characteristics are poor or no road access, steep slopes or wetlands, seasonal high water table and shallow to bedrock soils with a sizable area of good agricultural soils.

407.2 / Permitted uses:

All permitted uses as listed in **403.2, 404.2, 405.2, 406.2** plus the following additional uses:

- Sportsman's camp.
- Sawmill.
- Removal of natural materials.

Section 408 / Commercial Zones I & II:

408.1 / Objective and Characteristics:

1. Commercial Zone I includes all properties abutting New Hampshire State Highway Route 10 within the following limits of the Town of Marlow. On the east side of Route 10, the southerly boundary is the southern boundary of Lot 83, Map 203, extended to the one thousand (1,000) foot depth limitation, then northerly to Symondsville Road. On the west side of Route 10, the southerly boundary will be the southern boundary of Lot 39, Map 409, extended to the one thousand (1,000) foot limitation and then northerly to the southern boundary of Lot 9, Map 202, extended eastward to Route 10.

2. Commercial Zone II includes all properties abutting New Hampshire State Highway Route 10, within the following limits of the Town of Marlow: From the northerly boundary of Commercial Zone I to the Lempster Town Line and also south of the southerly boundary of Commercial Zone I to the Gilsum Town Line.

Any proposed commercial use, commercial use change or additional commercial use in this area shall have prior approval of the Marlow Planning Board. In considering approval, the Marlow Planning Board will base its decision on all of the factors listed in Section 306 of this Ordinance and any additional factors the Marlow Planning Board may consider to be important to the health and economic vitality of the Town of Marlow.

408.2 Commercial Zone I Guidelines:

1. Commercial Zone I shall not exceed one thousand (1,000) feet lateral depth from the edge of the State right-of-way on Route 10.
2. The minimum frontage set back for buildings, structures and parking areas shall be fifty (50) feet from the edge of the State right-of-way on Route 10. Existing buildings may be renovated and converted to commercial use even though not conforming to the above minimum frontage setback requirements. All additions must conform to the new minimum frontage setback requirement.
3. All parcels of land in Commercial Zone I must front directly on Route 10. The lot and building requirements as stated in Section 410, other than minimum setback requirements, must be adhered to.
4. Minimum setback from all other property lines (side and rear) shall be thirty (30) feet. Existing buildings not meeting these requirements may be renovated and converted to commercial use; however any new additions must conform with the above minimum setback requirement.
5. Only off-street parking, loading and unloading will be permitted; see Sections 306, 307 and 308 for further details.
6. Required off-street parking facilities shall be provided on the same lot as the principal use they are designed to serve. All parking areas shall be paved.
7. Entrances and exits must be free of any visual obstructions, including but not limited to buildings, structures, signs, shrubs, mounds of earth or fences that may obstruct the line of sight of those entering or exiting the driveway, as well as the line of sight of highway traffic.

All entrances and exits shall be paved.

the Location of entrances and exits must be approved by the proper state agency and Marlow Planning Board.

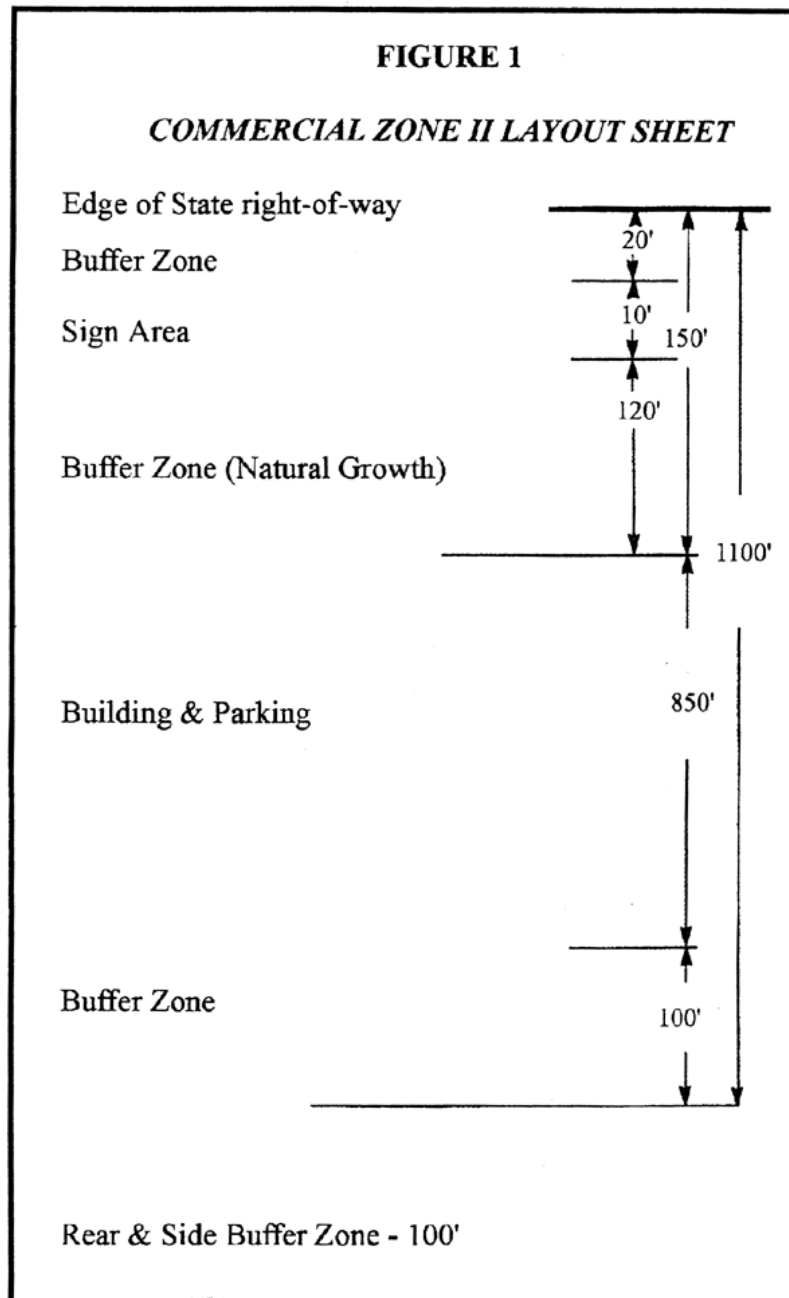
8. A landscaping plan shall be submitted to and must be approved by the Marlow Planning Board.

408.3 / Commercial Zone II Guidelines:

1. Commercial Zone II shall not exceed one thousand one hundred (1,100) feet lateral depth from the edge of the State right-of-way.
2. The minimum frontage setback for buildings, structures and parking areas shall be one hundred fifty (150) feet from the edge of the State right-of-way on Route 10.
3. All parcels in the Commercial Zone II must front directly on Route 10. The lot and building requirement as stated in Section 410, other than minimum setback requirements, must be adhered to.
4. Minimum setback from all other property lines (side and rear) shall be one hundred (100) feet.
5. Only off-street parking, loading and unloading will be permitted; see Sections 306, 307 and 308 for further details.
6. Entrances and exits must be free of any visual obstructions, including but not limited to trees, shrubs, mounds of earth or fences that may obstruct the line of sight of those entering or exiting the driveway, as well as the line of sight of highway traffic.

Location of entrances and exits must be approved by the proper state agency and the Planning Board.

7. See Figure 1 on next page - further requirements relating to the 150 feet between the edge of the State right-of-way and the building and parking area.
8. A buffer zone of natural growth shall extend from the sign area to the building and parking area (beginning 30 feet from the State right-of-way and ending 150 feet from the State right-of-way.)
9. A landscaping plan shall be submitted to and must be approved by the Planning Board.
10. Newly planted trees and shrubs, also fences, must be set back at least twenty-five (25) feet from the edge of the State right-of-way on Route 10.



408.4

The previous Commercial Zones I and II regulations do not preclude residential construction within either zone.

408.5

In accordance with, and under the authority of RSA 674:1 VI and RSA 674:43-1, the Marlow Planning Board is authorized to evaluate and to conduct site plan review of all proposed creations or expansions of non-residential uses.

Accordingly, anyone proposing projects of the above nature in any district of the Town, with the exception of customary home occupations, shall present their plans to the Planning Board prior to proceeding. The Planning Board will:

1. Determine whether the proposal is a permitted use, and
2. Conduct Site Plan Review of the projected use or waive this procedure consistent with current Site Plan Review regulations when such waiver is deemed appropriate.

408.6

Notwithstanding any other provisions contained herein, the establishment of any large-scale retail developmet (as defined) is expressly forbidden in any zone in Marlow.

Section 409 / Wetland Conservation District:

409.1 / Objective and Characteristics:

The Wetland Conservation District consists of those areas identified and delineated as poorly drained or very poorly drained soils by the Medium Intensity Soil Survey on field mapping photographic sheets for the Town of Marlow, New Hampshire. The Wetland Conservation District as herein defined is shown on a map or maps designated as the Town of Marlow Wetland Conservation District Map. It is a part of the “Zoning Map” of the Town of Marlow, New Hampshire.

Where the Wetland Conservation District is superimposed over another Zoning District in the Town of Marlow, the district whose regulations are the most restrictive shall apply.

In the event an area is incorrectly designated as being poorly drained or very poorly drained soils on the Town of Marlow Wetland Conservation District Map and evidence to that effect is satisfactorily presented to the Selectmen and Board of Adjustment, the restrictions contained in this Section shall not apply. Such evidence may be obtained by adequate onsite soils investigation and analysis conducted by a soils scientist qualified in field analysis.

409.2 / Purpose:

In the interest of public health, convenience, safety and general welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables:

- A. To encourage those uses that can be appropriately and safely located in wetland areas.
- B. To protect naturally occurring wetlands from pollution of surface and ground water by sewage.
- C. To preserve natural wetlands which provide flood protection, recharge of ground water supply, augmentation of stream flow during dry periods and important wildlife areas.
- D. To protect the town from unnecessary or excessive expenses, in providing and maintaining essential services and utilities, resulting from inharmonious use of wetlands.

409.3 / Permitted uses:

Any use otherwise permitted by the zoning ordinance, that does not result in the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of the land:

- Forestry - tree farming
- Agriculture
- Ponds and well supplies
- Streams, creeks, or other paths of normal runoff water
- Wildlife Refuge
- Parks and such recreation uses as are consistent with the purpose and intention of the Section titled PURPOSE
- Conservation areas and nature trails
- Open space as permitted by subdivision regulations and other sections of this ordinance

409.4 / Allowed by Special Exceptions:

Special exceptions may be granted by the Board of Adjustment for the following uses within the Wetland Conservation District:

- A.** Those uses essential to the productive use of land not involved in the Wetland Conservation District, if located and constructed to minimize any detrimental impact upon the wetlands. These uses include, but are not limited to: the construction of streets, roads, other access ways, utility rights-of-way; and easements, including power lines and pipe lines.
- B.** The undertaking of a use not otherwise permitted in the Wetland Conservation District which may include the erection of a structure, dredging, filling, draining or otherwise altering the surface configuration of the land, if it can be shown that such proposed use will not conflict with the purpose and intention of the Wetlands Conservation District and if such proposed use is otherwise permitted by the zoning ordinance. Proper evidence to this effect shall be submitted in writing to the Board of Adjustment and shall be accompanied by the findings of a review by Cheshire County Conservation Commission of the environmental effects of such proposed use upon the wetlands in question.

409.5 / Special Provisions:

No septic tank or leach field may be located closer than Seventy-five (75) feet to any wetland.

Section 410 / Lot and Building Requirements for All Districts:

| | Village | R-2 | R-5 | R-10 | RL |
|------------------------|---------|-----|-----|------|-----|
| Maximum Stories | 2 ½ | 2 ½ | 2 ½ | 2 ½ | 2 ½ |

| | | | | | |
|--|----------|----------|----------|----------|----------|
| Maximum Height* | 35 feet | 35 feet | 35 feet | 35 feet | 35 feet |
| Minimum Frontage | 175 feet | 175 feet | 200 feet | 300 feet | 400 feet |
| Minimum Lot Area | 1 acre | 2 acres | 5 acres | 10 acres | 20 acres |
| Minimum Setback** from right-of-way | 40 feet | 40 feet | 40 feet | 40 feet | 40 feet |
| Minimum Setback** from all other property lines | 25 feet | 25 feet | 25 feet | 25 feet | 25 feet |

* Building Height: The vertical distance from the average finished grade within 10 feet of the walls of the building to the highest point of flat or mansard roofs, including the top of a parapet, or to the mean level between the eaves and ridge for gable, hip or gambrel roofs.

** Minimum Setback: Commercial Zone I & II — See sections 408.2 (2) & (4) and 408.3 (2) & (4) respectively.

ARTICLE V. / SPECIAL PROVISIONS

Section 501 / Excavation and removal of Natural Materials:

The commercial excavation and/or removal of sand, gravel, rock, soil or construction aggregate shall be permitted in the R-10 and Rural Lands districts pursuant to the provision of R.S.A. 155-E. The Marlow Planning Board is hereby designated as the “regulator” for the purpose of issuing permits for such excavations.

ARTICLE VI. / BOARD OF ADJUSTMENT

Section 601 / Creation:

The present Board of Adjustment, previously created, shall continue in existence, and its members shall continue to be appointed by the Selectmen in accordance with and shall have the terms and powers hereby conferred upon the Board of Adjustment by the provisions of Chapters 673-676, New Hampshire Revised statutes Annotated, as amended.

Section 602 / Adoption of Rules:

The Board of Adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this ordinance, and the provisions of RSA Chapter 676, as amended, and shall provide for a public hearing to be held on all requests for special exceptions, variances, and appeals.

602.1 / Notice thereof shall be given as follows:

The applicant and all the abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of the hearings, and such notice shall be given not less than five days before the date fixed for the hearing of the appeal.

602.2

The public hearing shall be held within thirty days of the receipt of the notice of appeal.

602.3

Any party may appear in person or be represented by his agent or attorney at the hearing of an appeal.

602.4

The cost of advertising and cost of mailing the notice of hearing shall be payable by the person making the appeal, prior to the hearing.

Section 603 / Powers of the Board:

The Board of Adjustment shall have the following powers, as well as any other power conferred upon such Boards by the Statutes of the State of New Hampshire.

603.1

To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any Administrative Official in the enforcement of this ordinance.

603.2

To hear and decide special exceptions to the terms of this ordinance upon which the Board of Adjustment is required to pass as provided herein.

603.3

To authorize, upon appeal in specific cases, such variances from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship so that the spirit of the ordinance shall be observed and substantial justice be done. In so doing, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and community.

603.4

In exercising the above-mentioned power, the Board of Adjustment may, in conformity with the powers granted to it under RSA Chapter 674, reserve or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order or decision as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

Section 604 / Variances:

The Board of Adjustment may authorize a variance from the terms of this ordinance only where the Board finds that all of the following conditions apply:

604.1

There are special circumstances or conditions applying to the land or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the property in question, or exceptional topographical conditions), which are peculiar to such land or structure, and the application of the requirements of this ordinance will deprive an owner of such property of reasonable use of it, and will impose on such owner a hardship not shared by the owners of other property in the same district. (Financial hardship does not constitute “hardship” in this case).

604.2

The specific variance as granted is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the land or structures.

604.3

The granting of the variance will be in harmony with the general purposes and intent of this ordinance, and with the convenience, welfare, and character of the district within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.

604.4

In authorizing a variance, the Board of Adjustment may attach such conditions and safeguards as it deems necessary to protect the neighborhood and the community, including, but not limited to, a time limit when the variance will expire if not utilized.

Section 605 / Appeals:

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the Administrative Officer. Such appeal shall be taken within a sixty (60) day period by filing with the Board and the officer from whom the appeal is taken, a notice of appeal specifying the grounds thereof. The Board of Adjustment shall hold a public hearing within thirty (30) days of receipt of the notice of appeal, give public notice thereof, as well as notice to the parties in interest, and decide the same within thirty (30) days. At the hearing, any party may appear in person or by agent or attorney.

Section 606 / Special Exceptions:

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board, grant a permit for a special exception for those uses listed in Article IV as “allowed by special exception”. The Board, in acting on an application for a special exception, shall taken into consideration the following conditions and criteria:

606.1

The specific site is an appropriate location for such use.

606.2

The use as developed will not adversely affect the adjacent area.

606.3

There will be no nuisance or serious hazard to vehicles or pedestrians.

606.4

Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

606.5

Such approval would be consistent with the intent of the Comprehensive Planning Program, after having given due consideration to recommendations received from the Planning Board, Conservation Commission and the Selectmen, within thirty (30) days of receipt of the petition by the Board of Adjustment.

Section 607 / Requirements for Granting Special Exceptions:

As per State Regulations.

ARTICLE VII. / ADMINISTRATION AND ENFORCEMENT

Section 701

The Board of Selectmen shall enforce the provisions of this ordinance in the name of the town under the penalty of these provisions or, if necessary, by seeking injunctive relief.

Section 702 / Permits:

702.1 / When Required

A permit shall be required when it is proposed to erect or place a structure for any use outlined in Article IV, or when it is proposed to alter an existing building to make it suitable for any use outlined in Article IV. Auxiliary buildings, as referenced in **702.5, #1.**, do not require a permit, but must meet regulations set forth in this ordinance.

702.2 / Duty

The Board of Selectmen is hereby given power and authority to administer the provisions of this ordinance. The Selectmen may appoint an agent to administer and enforce this ordinance.

702.3 / Application Requirements

When required, written application for a building permit shall be filed with the Board of Selectmen or its agent. The application shall include a description of the location and nature of the proposed building and other work together with a plan of the same showing the boundaries of the lot, the proposed location of the building, and showing any other structures existing or proposed on the lot. The location of proposed existing water supply and sewage disposal facilities shall be shown. When a new water supply or sewage disposal system is proposed, appropriate approval from the State of New Hampshire Water Supply and Pollution Control Commission shall be shown. In addition, the plans shall include names of owners of abutting land, the general contour of the individual lot and abutting land, proposed access to the lot and any other pertinent details.

702.4 / Issuance of Permit

The Board of Selectmen or its agent shall determine as a matter of record whether or not the granting of such permit will be in accordance with the purpose and requirements of this ordinance.

The granting or denial of the permit shall take place not later than thirty (30) days from the date of filing the application, unless the applicant and the Board of Selectmen or its agent shall jointly agree to a reasonable extension.

702.5 / Permit Fees

1. All auxiliary structures of 200 square feet (for example 14'x14') or less shall not require a building permit. These buildings must still comply with all setback requirements.
2. Repair, renovation or remodeling which does not increase the height or footprint of the structure shall not require a building permit.
3. Stand alone structures between 201 square feet and 500 square feet (for example 22'x22') not intended for human habitation - \$10.00.
4. Stand alone structures of more than 500 square feet and not designed or intended for human habitation (for example: barns, garages). - \$50.00.
5. Attached unenclosed porches or decks with or without roofs. - \$25.00.
6. New single family residential construction regardless of size. - \$100.00.
7. New two family residential construction regardless of size. - \$200.00.

8. Enclosed habitable additions to existing residential structures, regardless of size. - \$50.00.
9. Conversions from residential to commercial use and vice versa – 20 cents per square foot.
10. New commercial construction – 20 cents per square foot.

702.6 / Revocation of Permit

Any permit may be revoked by the Board of Selectmen, or their agent, at any time for just cause.

Section 703 / Penalty:

Any person found guilty of violating any provisions of this ordinance shall be fined not more than \$100 per day for each day such violation shall continue after written notice is given to the person by the Board of Selectmen.

Section 704 / Severability Clause:

If any article, section, sub-section, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of these regulations and other town regulations in effect at that time.

Section 705 / Amendments:

This ordinance, and the boundaries of zoning districts established hereunder, may from time to time be amended or changed as provided by Chapter 675 of the New Hampshire Revised Statutes Annotated.

Section 706 / Validity:

Upon passage of this ordinance, the following ordinance, adopted by Town Meeting indicated, is repealed: 1970 - "Zoning Ordinance for Town of Marlow" and all subsequent amendments. Whenever the provisions of this ordinance or rulings made under the authority hereof differ from those of other ordinances or regulations of the Town, that provision or ruling which imposes greater restriction or higher standard shall govern.

Section 707 / Effective Date:

This ordinance and all subsequent amendments shall take effect immediately upon their adoption.

Originally adopted March 11, 1986.

BUILDING REGULATIONS

PURPOSES:

To promote the health, safety, convenience and general welfare of the Town of Marlow, to secure efficiency and economy in the process of developing the Town and to keep it an attractive place in which to live and do business, the following ordinance is hereby enacted by the voters of said Town in Town Meeting convened, in accordance with authority conferred by Chapter 51, Section 50 to 71 as amended and by Chapter 176, Sections 17-21 R.L. 1942.

BUILDING REGULATIONS:

1. An Inspector of Buildings shall be appointed by the Selectmen annually and shall be the administrative officer of this ordinance. He shall receive applications and fees for the erection or alteration of buildings as provided in this ordinance, shall keep complete records of all applications and his actions on the applications; promptly survey and inspect all buildings, alterations, or uses proposed, accept and deposit with the Town Treasurer all fees collected by him under this ordinance, and may issue permits for erection, alteration, or remodeling of all buildings, and the use of land, if in his opinion the proposal complies with the law of the State, this ordinance and other town ordinances and by-laws; any other duties prescribed by law, and shall act in cooperation with the fire warden in any matter in which their duties as prescribed by law may coincide or conflict; and shall take such action in the enforcement of this ordinance as may be directed by the Selectmen.
2. The Building Inspector is considered an agent of the Town and his/her compensation shall be set by the Board of Selectmen.
3. No trailer or mobile home shall be placed in this town either on a temporary or permanent basis; no building construction shall be started; no alterations of, or additions to, existing buildings undertaken until a permit has been issued by the Building Inspector under the terms of this ordinance, or the requirement waived.
4. No application for a permit required by this ordinance shall receive action by the Building Inspector unless made in writing. All applications for a permit to build, construct, alter or remodel any building shall be accompanied by a sketch or plan of the proposed building or alterations, and a statement of its intended use when built, constructed, altered or remodeled. A building permit shall become void unless operations are commenced within six (6) months from date of approval, unless the building official extends such time.
5. Upon receiving such application the Building Inspector shall promptly take such action as may be indicated in the way of investigation or public hearings to acquaint himself with the merits of the application. He may, without judging the application on its merits, refer the application to the Board of Adjustment. If, however, he finds the proposed building, alteration, or use of building to conform to the law and this ordinance, he may at once issue the permit in writing over his signature. If he finds the proposal in any conflict with the law or this ordinance, he shall fix whatever restrictions of conditions on the proposed construction or use as may be in his best judgment, right and proper, or for reasonable cause refuse the permit.
 - a. A state approved septic system is required for any building that will have running water. An Approval for Construction certificate for each system, issued by the NH Department of Environmental Services, must be on record and numerically identified on the building permit application.
 - b. An Approval for Operation Certificate for such septic system, issued by the NH Department of Environmental Services, must be received before the Town will issue a Certificate of Occupancy. Notwithstanding the above, nothing in this section shall be construed to deny or eliminate the use of alternate systems of human waste disposal, which pose no risk to the community or the environments.

- c. Existing disposal systems shall be deemed acceptable providing that said systems function properly and are of sufficient capacity to accommodate the facilities. All such systems shall be subject to review by the Town Health Officer and/or the Building Inspector as to their capabilities under increased demand or use. When deemed necessary the Marlow Board of Health may require modifications or enlargements of existing systems.
 - d. The Building Inspector and Health Officer may seek any expert advice or assistance that they deem necessary to aid them in reaching decisions as outlined under R.S.A. 147:8. They may not use these ordinances or regulations as means to unfairly delay or prohibit any construction for personal, discriminative or other unacceptable reasons.
 - e. Where applicable, all of the above shall apply to trailers, mobile homes or other prefabricated units, as well as to on-location construction.
6. In all instances where Federal, State, or Industry Codes (electrical, plumbing, etc.) are more stringent than local code, or where local code is silent, the former shall govern. No building or structure shall be erected, altered, rebuilt, substantially repaired, remodeled, moved and set up in another location unless in compliance with the following:
- a. **Roofs.** No roof of any building shall be covered or recovered in whole or in part save with approved roofing materials.
 - b. **Chimney construction.** No chimney shall be built, erected, or altered below the roof unless containing tile and with a suitable clean-out door at or near its base, and shall extend a reasonable distance from its outlet at the discretion of the Inspector. No chimney shall be built, erected or altered below the roof having wood or other combustible materials within one inch of the chimney and no chimney shall have its base resting upon any floor or beam of combustible material.
 - c. **Thimbles.** No wallpaper or other combustible material shall be laid over the thimble or thimble hole in any chimney.
 - d. **Smoke Pipes.** No smoke pipes shall be installed or erected so as to be within twelve inches of any combustible floor or ceiling, unless amply protected with non-combustible material. No pipe shall be installed or erected which passes into or through partitions or walls of combustible material, except when guarded by a standard collar of metal.
 - e. **Foundations.** All structures shall be set on solid foundations of cement, brick, stone, or other acceptable masonry, except that in special cases where buildings are to be used for industrial, agricultural or accessory use, the building inspector may waive the requirements of this section and permit the use of wood, metal or masonry piers.
 - f. **Exterior walls:** Outside walls shall be constructed of materials commonly used for outside construction and shall be finished on the exterior in a permanent manner, and materials customarily painted shall be painted.

g. Sewerage. All dwellings and all commercial, public, or industrial buildings shall have a private sewage disposal system, the type, size and construction of which shall have state approval.

- 7. Board of Adjustment.** The Selectmen shall appoint a Board of Adjustment of five members, said Board of Adjustment to serve without compensation. The Board of Adjustment shall have authority to allow slight variances from the specific terms of this ordinance, where it can be shown that unnecessary hardship would otherwise result, and shall otherwise be governed in the performance of their duties by the provisions as set forth in Chapter 51, Section 56-71 R.I. 1942as amended.
- 8. Amendment.** This ordinance may be amended by a majority vote of any legal town meeting when such amendment is published in the warrant calling for the meeting.
- 9. Enforcement.** Upon any well-founded information that this ordinance is being violated, the selectmen shall, on their own initiative, take immediate steps to enforce the provisions of this ordinance by seeking an injunction in the Superior Court or by any other appropriate legal action. Whoever violates any of the provisions of the above regulations shall be punished upon conviction by a fine not exceeding ten dollars for each day or each violation.
- 10.** This ordinance shall take effect upon its passage. The invalidity of any section or provision of this ordinance shall not invalidate any other section or provision hereof.

STANDARD PROCEDURE FOR OBTAINING A BUILDING PERMIT

APPLICATION PHASE:

- Building Permit forms may be obtained at the town office or directly from the building inspector / code enforcement officer.
- The documentation required for the issuance of a building permit shall include the following:
 - a.** A completed building permit application form. The building inspector will assist you if necessary.
 - b.** A diagram of the property indicating all boundaries, roads, driveway(s), well (if applicable), and the footprint of the proposed structure showing the setback distances from the town right-of-way and all boundaries,
 - c.** A completed driveway permit properly executed and signed by the town road agent or the state DOT engineer. (Town forms available at the town office or from the building inspector),

- d. A conceptual sketch of the proposed structure,
- e. Construction plans showing floor layout, partitions, windows, doors, roof pitch, weight bearing walls, etc,
- f. In the case of a home, a state approved septic design and approval for construction document,
- g. A completed request for a 911 number if needed. (Form obtained through the town Enhanced 911 Liaison),
- h. The names and license numbers of the master plumber and electrician engaged on the project, if applicable, as requested on the form. (If these are the contractor's subs, this may be waived at the building inspector's discretion.),
- i. Payment of the appropriate application fee.
- j. Any other documentation or material that the building inspector may deem relevant or necessary.

ISSUANCE PHASE:

After review of the above material, the building inspector will either issue or deny the permit. Actual construction must commence within six months or the permit will lapse and will need to be renewed. If denied, the building inspector will state the reasons for denial and explain the applicant's recourse.

CONSTRUCTION PHASE:

- During the entire period of construction, the building permit weather card must be displayed prominently on site.
- Under normal circumstances, inspections will be conducted at the following points of construction:
 - a. Foundation,
 - b. Framing,
 - c. Wiring, Plumbing, & Heating,
 - d. Insulation,
 - e. Sheet rock.

(The order of inspections is described in more detail on the back of the applicant's yellow copy.) It is the responsibility of the owner or builder to notify the building inspector in a timely manner as each stage of construction is completed so that inspections may occur.

COMPLETION PHASE:

1. The building inspector may enlist the services of the Marlow Fire Chief or the State Fire Marshall's office for inspection of the heating system or chimney if he has any concerns regarding these aspects of the home. The building inspector may deem such inspection unnecessary if the installer is a licensed professional. All commercial projects are subject to the State Fire Marshall's inspections.
2. The building inspector will issue the Certificate of Occupancy upon completion of the project, as required. The Certificate of Occupancy may be issued upon request if the home is basically functioning and livable, even though not yet totally completed. It must, however, have electricity, plumbing, heat, and the septic system must be approved for operation and functional.

FOOTNOTE:

All questions regarding building or development should be directed to the building inspector/code enforcement officer or the Planning Board. All details leading up to the issuance of a valid building permit must be handled by the building inspector/code enforcement officer.

REMINDER:

Should your property be enrolled in the state *Current Use Program*, your building activities will disqualify either the area affected or the entire parcel. In either case, a use change penalty will be assessed against the property.

PLANNING BOARD PROCEDURES:

Aside from its other statutory and regulatory obligations, the planning board is responsible for the review and approval of all proposed property boundary changes or creations. These changes may be described as falling within three categories.

Voluntary Mergers: A voluntary merger may occur when the owner of two contiguous or abutting parcels of land or lots wishes to discontinue the existence or consideration of the boundary line currently separating them. This action is easily accomplished through the planning board and involves the completion of a simple form which must then come before the board. Upon the board's approval the lots involved cease to exist as two separate parcels and become one lot for all land use and tax purposes. This action is irreversible without future subdivision and may actually be impossible under current or future zoning requirements. There is no fee involved in a voluntary merger and no public hearing is required. The land owner is required to record the signed document at the registry office at his or her own expense.

Boundary Line Adjustments: Boundary line adjustments may occur when the owner or owners of two contiguous parcels decide that altering or moving their mutual boundary is to their advantage for whatever reason. Approval is not automatic and requires the planning board to determine that this action does not create a non-conforming lot for zoning purposes. Boundary line adjustments are not considered subdivisions as no new lots are created and only the sizes or configurations of existing lots are affected. Boundary line adjustments may be irreversible depending upon zoning. While there is no fee or public hearing required, the owner(s) must present a surveyor-prepared survey of the lots affected and a mylar copy for recording at the owner's expense. Those contemplating a boundary adjustment are encouraged to discuss it with the planning board prior to engaging a surveyor and incurring related costs.

Subdivisions: Subdivisions are by far the most serious land configuration changes that may come before the planning board. Subdivisions create new buildable lots and the planning board will not approve any that are otherwise. All lots so created must conform to the requirements of NH statute and our current zoning regulations. A public hearing(s) is required. All abutters must be notified of the impending subdivision and hearing and their input, if any, in writing or in person, is solicited. Public notice of the hearing date must appear in a paper of record and be posted in town. All associated costs are the landowner's responsibility. The landowner must have the entire property involved surveyed, must provide surveys, and a mylar as required. The planning board does not require a formal written subdivision application, but prefers that the landowners or his agent appear in person at a planning board meeting to discuss the owner's plans in an informal manner prior to proceeding further. The planning board finds this method far more informative for all concerned. The planning board does not charge a fee for subdivisions.

RULES AND REGULATIONS FOR MARLOW CEMETERIES

The following rules and regulations for the Marlow Cemeteries, together with the Laws contained in Chapter 289 of the State of N.H. Statutes, constitute the guidelines for the care and protection of the Marlow Cemeteries.

Article 1.

The Sexton is hereby empowered to enforce all Rules and Regulations, and to exclude from the property of the town cemeteries any person violating the same, and at all times shall have supervision and control of all persons within the cemetery, including the conduct of funerals, traffic and employees. To protect and promote the best interest of the cemetery, he is authorized to make temporary additional rules with the approval of the Trustees of the Cemetery which may be needed from time to time, to meet emergencies not covered by these Rules and Regulations.

Article 2.

Special cases or emergency conditions may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Trustees of the Cemetery therefore reserve the right without notice, to make exceptions, suspend or modify any of these Rules and Regulations when, in their judgment, it appears advisable. Such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of such Rule.

Article 3.

No admittance to the cemeteries except during daylight hours. Cemetery hours are sunrise to sunset. Animals shall not be permitted in the cemetery unless accompanied by their owner. The Sexton may, at his discretion, remove pots and urns, which contain mostly dead flowers or artificial flowers in faded condition. Gravestone rubbings require the written permission of the Trustees of the Cemetery.

Article 4.

Persons within the cemetery grounds shall use only the walks or roads, and any person injured while walking on the grass except when that is the only way to reach his/her plot, or while on any portion of the cemetery other than the walks or roads, shall in no way hold the Town liable for any injuries sustained.

Article 5.

Children under 18 years of age shall not be permitted within the cemetery or its buildings unless accompanied by an adult.

Article 6.

Besides being subject to these Rules and Regulations, all interments and removals are made subject to the orders and laws of the properly constituted authorities of the Town, County and State.

Article 7.

All interments, including cremains, shall be done under supervision of the Sexton. No interment shall be made until an interment order has been signed by the plot owner or his/her representative. Notice of interment must be given to the Cemetery Sexton at least forty-eight (48) hours in advance of burial.

Article 8.

When for any reasons, the interment space cannot be opened where specified, the Sexton may open it in such location in the lot as deemed best and proper so as not to delay the funeral. The Town shall not be liable in damages for any error so made.

Article 9.

The Town reserves the right to correct any errors made by it either in making interments, disinterments or removals, or in the description, transfer or conveyance of any interment property.

Article 10.

The Town shall in no way be liable for any delay in the interment of a body where a protest to the interment has been made, or when the Rules and Regulations have not been complied with.

Article 11.

Every coffin buried in a lot or single grave must be enclosed in a concrete, stone or other permanent vault of approved specifications.

Article 12.

The certificate of ownership and these Rules and Regulations and any amendments hereto shall be the sole agreement between the Town and the plot owner.

Article 13.

As a special mark of respect to those who have served our Country in its Armed Forces, the American Flag may be displayed on their grave sites. All flags will be removed without notice as they become soiled, faded, torn or otherwise unsightly.

Article 14.

- A.** The sale of plots in the Village Cemetery shall be under the control of the Cemetery Trustees.
- B.** Cemetery plots shall be sold in blocks, as defined by the Trustees of the Cemetery. Before any new block is opened for sale, all remaining plots in the previously designated block shall be sold. The only exception is to accommodate a written request to have a plot adjacent to other family plots.

- C. The sale of plots shall be limited to residents or former residents with the approval of the Cemetery Trustees.
- D. Cost shall be \$250.00 for a two grave plot; and \$500.00 for a four grave plot. Cremation plots shall be \$125.00 and may contain up to four cremations. Funds derived from the sale of plots shall be credited to a Common Trust Fund.
- E. Lot care includes the seeding and fertilization of grass, the cutting of grass upon the plots, the raking and cleaning of the plots, grading of the plot, as needed, and the occasional pruning and trimming of ornamental vegetation. Maintenance and repair of headstones or other monuments is the responsibility of the plot owner. The Town will be responsible for repairing monuments damaged by employees of the Town.

Article 15.

Except where specifically stated, annual interest derived from funds credited to the Perpetual Care Trust prior to 1975 shall be used initially for the care of the plot originally designated. Any remaining interest may then be used for the general upkeep of the cemetery.

Article 16.

Owners, or their heirs, of existing plots without perpetual care and purchased prior to 1975 are required to obtain a Perpetual Care Trust Fund for said plot in an amount not less than \$150.00.

Article 17.

In the event an unused plot is no longer needed or wanted by the owner or heirs, it must be sold back to the Town for the price at time of original purchase plus any unexpended accrued interest.

Article 18.

Whenever a burial space or spaces in the Village Cemetery have remained unused for a period of 50 years, and the owner has not improved such space or spaces by causing a monument, gravestone, or other permanent appurtenance to be placed on the burial space, and it can be reasonably expected that there is no intent to use the plot and it has been abandoned, the Cemetery Trustees may institute proceedings for the termination and forfeiture of the rights and interests of such owner. The Cemetery Trustees shall follow the procedures listed in RSA 289:18 Forfeiture Procedures I, II, III and IV.

Article 19.

All monuments, footstones and headstones shall be of a permanent nature and constructed of natural stone. No artificial stone or wood shall be permitted. All footstones shall be set flush with the lawn surface so that no part of such footstone shall protrude above the surface of the ground. No monument, marker, headstone or memorial shall be placed on any plot until the plot is paid for in full and the location of all headstones and footstones have been approved by the Sexton.

Article 20.

Although the Cemetery Trustees, at this time, do not require cornerstones, we highly recommend that cornerstones be used to mark the plot boundaries soon after a plot is purchased. Cornerstones shall be set flush with the lawn surface, be of a permanent nature and constructed of natural stone. No cornerstones shall be placed on any plot until the plot is paid for in full.

Article 21.

In what is known as the Perpetual Care Section, the location of all headstones and footstones shall be designated by the Sexton. All inscriptions on monuments or headstones shall be oriented towards the center access road so that a visitor entering the P/C section can more easily identify a specific plot.

MARLOW ENHANCED 911 ORDINANCE

An Ordinance for the Establishment and Maintenance of the Enhanced 911 Numerical Building Identification System

SECTION I / PURPOSE:

1. To promote and maintain the 911 numbering system for all homes and buildings in the town of Marlow as created by the Office of Emergency Management.
2. To insure accuracy and efficiency in pinpointing and locating all residences and buildings within the geographic confines of Marlow.
3. To identify by name all class V roads within the town through the use of permanent signage.
4. To encourage and insure the adequate display of both road names and house numbers for the purpose of aiding all necessary emergency services in responding to 911 or Mutual Aid calls.

SECTION II / IMPLEMENTATION:

1. Street and road names have been adopted by the town and accepted by the NH Office of Emergency Management. The town is responsible for the erection and maintenance of proper uniform road name signs within the class V town road network.
2. All residences and other significant structures located within the town have been assigned specific numbers. A separate form requesting a 911 number assignment, as determined by the town building inspector will accompany all applications for new construction, when necessary.
3. All owners of houses or buildings to which a 911 number has been assigned are responsible for obtaining and adequately displaying their number(s) so that they are readily visible from the road both day and night. Each individual number shall be at least 4 inches high by 2.5 inches in width.
4. Numbers may be affixed to structures or mounted on roadside posts beyond the reach of road maintenance equipment. In instances where the assigned number also serves as part of one's mailing address, it should be displayed on the homeowner's roadside mailbox.

SECTION III / ENFORCEMENT:

1. Any homeowner or responsible party who fails to comply with the requirements of this ordinance within six months of its enactment shall be liable for a fine not to exceed \$50.00. In the case of new construction, where a Certificate of Occupancy is required, the building inspector shall not issue such certificate until the above requirement is met.
2. The defacement or unauthorized removal of road name signs is considered an act of vandalism and will be treated as a criminal offense.

SECTION IV / EFFECTIVE DATE:

1. This permanent ordinance shall take effect and remain in force in Marlow upon its adoption by the Board of Selectmen in open meeting convened.

SECTION V / DISPUTES:

1. Any questions or disagreements with any provision of this ordinance shall be referred to the Enhanced 911-town liaison whose decision shall be final.

SECTION VI / AMENDMENTS:

1. This ordinance may be amended at any time by a simple majority vote of the Board of Selectmen in open meeting convened.

Adopted On Nov. 7, 2005.

CLASS VI ROAD POLICY

Definition:

The Class VI roads are those public rights of way which, while remaining open to public use, are no longer maintained by the town as defined and classified by RSA chapter 229:1,5&6 of Title XX, Transportation. Class VI highways shall consist of all other (Not already classified) existing public ways and shall include all highways discontinued as open highways and made subject to gates and bars, except as provided in paragraph III-a of RSA 229:5 (Class III Roads), and all highways which have not been maintained and repaired by the Town in suitable condition for travel thereon for 5 successive years of more except as restricted by RSA 231:3, paragraph II. Any Class V road can fall into Class VI designation either by Town Meeting action or by virtue of non-maintenance over a consecutive five year period, as warranted. Highways are defined in RSA 229:1 as: Highways are only such as laid out in the mode prescribed therefor by statute, or roads which have been constructed for public travel over land which has been conveyed to a city or town or to the state by deed of a fee or easement, or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located, or roads which have been used as such for public travel, other than travel to and from a toll bridge or ferry, for 20 years prior to January 1, 1968, and shall include the bridges thereon. All Class VI roads are open to public passage for all legitimate purposes with the express understanding that the town assumes no responsibility for any damages that may result from these roads' condition.

Purpose:

To protect the status and integrity of Marlow's Class VI roads. This road network represents an extremely strategic and valuable asset to the town, both logistically and from an historical perspective. These unmaintained roads provide access to the more outlying areas of the town for both recreational purposes and forest fire suppression. Additionally, they are necessary as access for the harvest of timber or other natural resources. Class VI roadways are not dumping grounds. It is unlawful to abandon vehicles, dispose of old appliances, dump debris or old tires, drop household or other refuse and garbage along Class VI or any roadways. Upon discovery, anyone responsible for such unlawful acts will be prosecuted. All vehicles, including off road recreational vehicles and snow traveling vehicles operated on Class VI roads will comply with all relevant state licensing requirements and operational laws.

1. Anyone having a legitimate interest in utilizing a Class VI road (including as a driveway to a lot of record that is accessible by a Class VI road) and not being the owner in title and fee of the land the road rests on, may, upon notification and approval in writing by the selectmen and abutting landowners, repair, upgrade, improve, and maintain said road for such use at their own expense. Tree trimming and removal of ornamental or public shade trees shall only be done in accordance RSA Chapter necessary to 231:140 & 144. The performance of such work shall in no way alter the Class VI designation of the road, nor shall such work of itself qualify the road for Class V status. The town shall assume no financial or legal obligation or responsibility for such project. Neither shall said road become a private way by virtue of such private endeavor. To this end they may do whatever work to the road they deem meet their needs at their own exclusive expense. The town shall not be responsible for any subsequent maintenance or repair of such work, nor will such property owner be justified or permitted to limit, curtail or discourage the public's use of that portion of the road because of it. No landowner may in any way block, hinder or impede the free and lawful passage of the general public on any Class VI road or portion thereof for any reason regardless of the fact that they may have invested substantial sums into its improvement and maintenance for their own benefit.

2. Ownership of the land upon which the public rights of way rest exists in many forms but generally remains with the landowners that abut such rights of way. Any work undertaken privately on Class VI roads which will result in timber, firewood or other byproduct of the project being generated, shall remain the property of such landowners of record or the abutters if ownership is undetermined. The right of way is considered to exist between the two stonewalls running parallel with and on either side of the road, regardless of the actual traveled portion of the road's proximity to one wall or the other. Under no circumstances may such walls be damaged, destroyed or removed beyond that necessary for a permitted driveway entrance.
3. No one may travel upon or utilize a Class VI road in such manner as to damage or destroy the road. Upon the advice and consent of the Road Agent and the Advisory Road Committee, the selectmen may set weight limits, seasonal or otherwise, per RSA 231:91 of Title XX Transportation. Appropriate signage to that affect must be affixed in a prominent manner at the appropriate locations. Anyone disregarding such notice or causing damage to any Class VI road shall be financially liable for repairing such damage. In addition, criminal action may be initiated against the responsible parties. The selectmen, at their discretion, may require the posting of a security bond by anyone whose use of a Class VI road will involve utilizing heavy vehicles and equipment.
4. There is currently no full time, year-round residences in Marlow located on lots having frontage exclusively on Class VI roads. No recreational, seasonal residences so situated will be granted full time, year-round status.
5. The Marlow Planning Board will not approve any proposed subdivision, which contains any lot whose sole frontage is on a Class VI road. In cases where such lots already exist as lots of record, no building permits will be issued. In the instance where a lot has frontage on both a Class V road and a Class VI road, the owner will be granted a permit to build on any portion of the lot they choose. If their choice of location necessitates utilizing the Class VI road, such utilization will be part of the permitting process. Landowners who utilize portions of Class VI roads to reach their residences shall be responsible to upgrade and maintain, at their own expense, said portions of those roads to meet the increased use to which they are subjected. Those portions of said roads must be passable at all times for fire, police, ambulance or the provision of other emergency services. As provided for in section V, the selectmen may set weight limits on these roads to vehicular traffic for cause, at their discretion, to preserve them, either seasonally or otherwise. In all such instances, those affected will be obliged to find or create alternate routes at their own expense.

6. There are only two ways in which a Class VI road may revert to Class V status. 1. Through affirmative Town Meeting action or: 2. If the road corresponds with a street or road on a Planning Board approved residential development plat. In either case the party seeking such approval, whether an individual or a developer, must first upgrade the road in question to meet Class V NHDOT specifications at his or her own expense, under the supervision and to the satisfaction of the town road agent, the Marlow Road Committee, and the board of selectmen before approval and/or consideration will be given. In a situation where the proposed reversion will result in a Class V dead end, the requesting party will be obliged to provide a cul-de-sac or turn-around of ample capacity to accommodate all town maintenance equipment. The acceptance of additional roads into the town's Class V road network represents substantial expense and responsibility for the town and such course of action will not be embarked upon lightly.
7. The following roads in Marlow are designated as Class VI roads, either in part or in their entirety generally known as:

Baine Road
Bakers Corner Road
Beebee Road
Ducky Brown Road
Flagg Road
Gage Road
Honey Brook Forest Road or CCC Road
Jay Allen Road
Kemp Road
Mack Hill Road
Mansfield Road
Marlow Hill Road
Miller Road
Old County Road or Old Hillsborough Rd
Old Profile Road
Old Stagecoach Road
Stone Pond Road
Whittemore Road

And those unnamed roads existing on the tax maps.

The following chapters on NH RSA's were used and or quoted to draft this policy, 229:1,5,6, 21-a, 22, 27, 44, 45, 51,140,144; 231:191; 266:18-a&c, 215-A-6, -7,15.
Jim Strickland 9/7/05

Adopted at Selectmen's meeting November 7, 2005

NATIONAL FLOOD INSURANCE REQUIREMENTS FOR SUBDIVISION AND SITE PLAN REVIEW REGULATIONS

The language below must be included in the Subdivision Regulations and Site Plan Review Regulations of communities that participate in the National Flood Insurance Program.

If the following language is not included or not the necessary corrections, adopt the corrected language, and send a certified copy of your community's Subdivision Regulations and Site Plan Review Regulations with the language included below to: Jennifer DeLong, Office of Energy and Planning, 57 Regional Drive, Suite 3, Concord, NH 03301.

For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

- A.** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

- B.** The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

- C.** The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:
 - (i)** all such proposals are consistent with the need to minimize flood damage;

 - (ii)** all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,

 - (iii)** adequate drainage is provided so as to reduce exposure to flood hazards.

MARLOW FLOODPLAIN MANAGEMENT ORDINANCE

For Communities with Special Flood Hazard Areas
Meets the Minimum Requirements of Section 60.3(b) of the
National Flood Insurance Program Regulations

Approved at March 2006 Town Meeting

SECTION I / PURPOSE:

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

This Ordinance establishes a permit system and review procedure for development activities in the designated flood hazard areas of the Town of Marlow, New Hampshire.

SECTION II / ESTABLISHMENT:

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

The following regulations in this ordinance shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Cheshire, NH" dated **May 23, 2006** or as amended, together with the associated Flood Insurance Rate Maps dated **May 23, 2006** or as amended, which are declared to be part of this ordinance and are hereby incorporated by reference.

SECTION III / PERMITS:

All proposed development in any special flood hazard areas shall require a permit.

SECTION IV / CONSTRUCTION REQUIREMENTS:

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

- a.** be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy,
- b.** be constructed with materials resistant to flood damage,

- c. be constructed by methods and practices that minimize flood damages,
- d. be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

SECTION V / WATER AND SEWER SYSTEMS:

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

SECTION VI / CERTIFICATION:

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the Board of Selectmen:

- a. the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- b. if the structure has been flood proofed, the as-built elevation (in relation to NGVD) to which the structure was flood proofed.
- c. any certification of flood proofing.

The Board of Selectmen shall maintain the aforementioned information for public inspection, and shall furnish such information upon request.

SECTION VII / OTHER PERMITS:

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

SECTION VIII / WATERCOURSES:

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Board of Selectmen, in addition to the copies required by the RSA 482-A: 3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen, including notice of all scheduled hearings before the Wetlands Bureau.
2. The applicant shall submit to the Board of Selectmen certification provided by a registered professional engineer assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

3. The Board of Selectmen shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located in Zone A meet the following floodway requirement:
 - a. "No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

SECTION IX / SPECIAL FLOOD HAZARD AREAS:

1. In A zones the Board of Selectmen shall obtain, review, and reasonably utilize any 100-year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site plan approvals).
2. The Board of Selectmen's 100-year flood elevation determination will be used as criteria for requiring in zone A that:
 - a. All new construction or substantial improvement of residential structures has the lowest floor (including basement) elevated to or above the 100-year flood elevation.
 - b. That all new construction or substantial improvements of non-residential structures have the lowest floor (including basement) elevated to or above the 100-year flood level; or together with attendant utility and sanitary facilities, shall:
 - (i) be flood proofed so that below the 100-year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
 - c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the 100-year flood elevation; and be securely anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
 - d. All recreational vehicles placed on sites within Zone A shall either:
 - (i) be on the site for fewer than 180 consecutive days;
 - (ii) be fully licensed and ready for highway use; or,

- (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c) (6) of Section 60.3.
- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted provided they meet the following requirements:
- (i) the enclosed area is unfinished or flood resistant, usable solely for the parking of vehicles, building access or storage;
 - (ii) the area is not a basement; and
 - (iii) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

SECTION X / VARIANCES:

1. Any order, requirement, decision or determination of the Board of Selectmen made under this ordinance may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I (b), the applicant shall have the burden of showing in addition to the usual variance standards under state law that:
 - a. the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense;
 - b. if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result; and
 - c. the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustment shall notify the applicant in writing that:
 - a. the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance overage; and
 - b. such construction below the base flood level increases risks to life and property

Such notification shall be maintained with a record of all variance actions.

4. The community shall:

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

SECTION XI / DEFINITIONS:

The following definitions shall apply only to this Floodplain Management Ordinance, and shall not be affected by the provisions of any other ordinance of the Town of Marlow.

"Area of Special Flood Hazard" is the land in the floodplain within the Town of Marlow subject to a one-percent or greater possibility of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map (FIRM).

"Base Flood" means the flood having a one-percent possibility of being equaled or exceeded in any given year.

"Basement" means any area of a building having its floor sub grade on all sides.

"Building" - see "structure".

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operation or storage of equipment or materials.

"FEMA " means the Federal Emergency Management Agency.

"Flood" or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters, or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study" (FIS) means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

"Floodplain" or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Flood proofing," means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures and their contents.

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

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

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

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other to which base flood elevations shown on a community's Flood Insurance Rate Maps are referenced.

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

"100-year flood" - see "base flood"

"Recreational Vehicle" is defined as:

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

"Special flood hazard area" means an area having flood, mudslide, and/or flood-related erosion hazards, and shown on a FIRM as zone A. (See - "Area of Special Flood Hazard")

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

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

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal:

- a. a. the appraised value prior to the start of the initial repair or improvement, or
- b. b. in the case of damage, the value of the structure prior to the damage occurring.

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

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

"Water surface elevation," means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains.