

TOWN OF BELMONT

NEW HAMPSHIRE

ZONING ORDINANCE

ENACTED: MARCH 11, 1986
EDITION: MARCH 10, 2026

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ZONING AND PLANNING ORDINANCE
Town of Belmont, New Hampshire

Adopted: March 11, 1986

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March 10, 1987
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March 11, 1997
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March 14, 2000
March 13, 2001
March 12, 2002
March 11, 2003
March 09, 2004
March 11, 2025
March 08, 2005
March 14, 2006
March 13, 2007
March 11, 2008
March 10, 2009
March 09, 2010
March 08, 2011
March 13, 2012
March 12, 2013
March 11, 2014
March 10, 2015
March 16, 2017
March 13, 2018
March 08, 2022
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March 12, 2024
March 10, 2026

ARTICLE 1. PURPOSE AND AUTHORITY

In order to retain the natural beauty of Belmont, to encourage the most appropriate use of land, and to conserve its natural resources, to preserve significant wildlife habitat and habitat links and buffers, to stabilize the value of land and buildings, to prevent overcrowding of land and undue concentrations of population, to facilitate the economical provision of future required utilities and facilities and to protect the health, safety and general welfare of the citizens; the following Ordinance is enacted in accordance with the authority provided by Chapter 674, Section 16-23, New Hampshire Revised Statutes Annotated (RSA), 1983, as amended.

Nonconforming uses, not in compliance with this ordinance, shall be permitted to continue. A nonconforming use that is abandoned for more than two years cannot be reinstituted without complying with this Ordinance.

The Planning Board may, by majority vote, correct technical, typographical, and non-substantive errors and may reorder, renumber, and correct cross-reference information, where needed throughout this Ordinance provided that no substantive change to the Ordinance shall occur as a result of the changes.

The Planning Board may, by majority vote, after holding public hearings at two regularly-scheduled Planning Board meetings, make corrections throughout this Ordinance as required by changes to the RSA.

ARTICLE 2. TITLE

This Ordinance shall be known and may be cited as the **"ZONING AND PLANNING ORDINANCE FOR THE TOWN OF BELMONT, NEW HAMPSHIRE"**. It is hereinafter referred to as "this ordinance".

ARTICLE 3. DISTRICTS

A. DISTRICTS

The Town of Belmont is divided into six zoning districts hereinafter referred to as "Districts".

Commercial	**C**
Industrial	**I**
Residential Multi-Family	**RM**
Residential Single-Family	**RS**
Rural	**R**
Village	**V**

B. ZONING MAP

The zoning districts listed above are bounded as shown in the Zoning Map of the Town of Belmont which is made a part of this Ordinance by reference and is hereinafter referred to as the "**Zoning Map**". Whenever the term Belmont Zoning Map or zoning map is used in this ordinance, it shall be deemed to refer to the Zoning Map. The official Zoning Map of the Town of Belmont is to be used to determine exact zoning district boundaries, and shall be certified as the official Zoning Map of the Town of Belmont by the Town Clerk, upon adoption of this amendment and, upon certification, shall be filed with the Planning Board.

C. ZONING DISTRICT BOUNDARIES

The zoning boundaries are depicted on the Belmont Zoning Map. The middle of stream channels or other water bodies and the center of railroad or road right-of-way shall be where the boundary line distance is determined. Any boundary within 10 feet of a property line shall be considered to coincide with such property line. In any instance where there is doubt as to the location of a zoning district boundary, the Planning Board shall determine the location of such boundary, consistent with the intent of this ordinance and zoning map.

D. PERMITTED USE TABLE

Uses not contained within those listed in the Table of Permitted Uses contained within this Ordinance are not allowed in any Zoning District.

ARTICLE 4. GENERAL PROVISIONS APPLICABLE TO ALL DISTRICTS

A. SANITARY PROTECTION

All structures and sanitary systems shall be constructed and maintained in accordance with standards set by the State of New Hampshire, the Town Subdivision Regulations and applicable health and sanitary codes.

B. HOME OCCUPATIONS

Any home occupation shall be permitted in all zones subject to the following conditions:

1. A home occupation is clearly an accessory use of the property. Home Occupations shall include such uses as offices for an engineer, doctor, architect, lawyer or other recognized profession or for a real estate or insurance business. It shall also include such home occupations as hairdressing, dressmaking, manufacture of craft or food products for sale.
2. The home occupation is carried on by not more than four persons at least one of which shall be a resident of the property.
3. The home occupation shall be carried on only within the principal or accessory structure, and there shall be no commercial interruption of the residential appearance of the area.
4. A home occupation shall be allowed one sign.
5. Operations which are abusive to the residential atmosphere or that cause interference with radio or television reception or than generate undue noise shall not be allowed.
6. A home occupation shall not display or create any evidence of the operation of the home occupation outside the building except for the permitted sign.
7. No more than two Home Occupations shall be established on a lot at one time. However, the total number of persons, including residents, carrying on the Home Occupation(s) shall not exceed 4 per lot.
8. Home occupations shall not utilize more than a total of 1,000 square feet of the principal and/or accessory structure.

C. HEIGHT REGULATIONS

The height limitations for all structures in all districts shall not exceed forty-five (45) feet as measured from the highest point of the structure to the average finished grade immediately surrounding the structure, except for domestic radio and television antennas, silos for storage of feed crops, church towers, water storage structures, chimneys, wind operated devices or aggregate processing structures. In the Commercial and Industrial Zones structures may exceed the forty-five (45) foot maximum height restriction by a Special Exception granted by the Zoning Board of Adjustment.

D. FLOOD AREAS

No building for human occupancy shall be permitted to be built unless it complies with the regulations of the Federal Flood Insurance Program. Limits of flood plains shall be those indicated on the flood plain map as prepared by the Federal Government.

E. CERTIFICATE OF COMPLIANCE

Prior to the issuance of a building permit or change of occupancy permit, the applicant shall obtain a certificate of compliance from the Planning Board Chairman or designated Member stating that the proposed structure, alteration, or use complies with all provisions of this Ordinance, or that the Zoning Board of Adjustment has issued a variance or special exception. Prior to the issuance of a permit to move, remove, or demolish any structure, the applicant shall submit a copy of the application, signed by the structure owner and the land owner, to the Planning Board to be utilized by the Board for property use records maintenance.

F. FIRE RUINED BUILDINGS

No owner or occupant of land in any district shall permit fire or other ruins to be left indefinitely, but within one year shall remove or refill the same to clear ground level or shall repair, build or replace the structure.

G. REMOVAL OF NATURAL MATERIAL

If clay, sod, loam, sand or gravel is removed within 100 feet of a public highway, street or roadway, the area shall be regraded to assure that the premises will be left protected against erosion and washouts within 90 days of the finish of operation and/or material removed. All earth excavation to be in compliance with the Belmont Earth Excavation Regulations.

H. MERGER OF CONTIGUOUS LOTS

Contiguous lots in the same ownership may be merged by the owner through application to the Planning Board, but shall not require the submission of a surveyed plot plan. Once a merger application has been submitted and approved, the merged lots shall not be developed or transferred separately unless in accordance with then current Zoning and Subdivision Regulations. All mergers shall comply with RSA 674:39-a.

I. SIGNS

1. Purpose:

Signs perform important functions that are essential for public safety and general welfare, including communicating messages, providing information about goods and services, and warning, orienting and directing people. It is further recognized that because of potential detrimental impacts, signs must be regulated to:

a. Protect transportation corridors from encroachment of structures, congestion and blight related to size, lighting and location which may interfere with the visibility from or to access points and thereby prevent hazards to vehicular and pedestrian traffic safety; and

b. Provide easy recognition and legibility of permitted signs and uses and promote visual order and clarity on streets; and

c. Facilitate efficient communication by implementing design criteria that produces signs which can be easily read and recognized without distracting

elements; and

d. Preserve the natural features and protect the rural qualities of the Town of Belmont; and

e. Support business and community vitality by informing the public of available goods, services, and activities; and

f. Protect property values and investment backed expectations through an orderly and reasonable allowance for signage; and

g. Prevent nuisances and ensure the quiet enjoyment of one's property by recognizing the differing needs of commercial and non-commercial properties; and

h. Promote community self-sufficiency by allowing temporary, seasonal, and on and off-site signs for all lots within the community; and

. Be consistent with the goals of the Belmont Master Plan.

2. General Provisions:

Signs shall be permitted in any district subject to the regulations contained in this Ordinance. Any sign or use of sign shall conform to the following standards.

a. Sign Permit Process:

1. A completed Sign Permit Application must be submitted to the Land Use Office and a permit for signs, conforming to all specifications of this section, must be secured prior to erecting, re-erecting, altering, relocating, enlarging, making structural repairs or changes, and/or changing the lighting, size or height of signs. Content changes do not require a permit.

2. If a sign permit has been issued to a particular use and that use is sold, a new sign construction permit will not be required if the new use is similar, the sign is the same size, the sign and supports have the same materials, and the sign is in the same location.

b. The owner of any sign which is otherwise allowed under this Article may substitute non-commercial copy in lieu of commercial or non-commercial copy without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech.

c. Signs existing legally at the time of the adoption of this Ordinance may continue. Preexisting nonconforming signs may be replaced in kind but shall not be expanded.

d. Signs for a non-residential use that has not operated within the previous ninety (90) days shall be removed within thirty (30) days.

e. All signs shall be designed, constructed and maintained in accordance with this Zoning Ordinance and the International Building Code as adopted by the State of NH. Signs shall be constructed of permanent materials and shall be properly attached to the ground, building, or other structure. Signs may also subject to State and Federal regulations.

f. Illuminated signs shall be lit by steady, non-flashing, white light which shall be shielded from abutters and traffic.

g. Building mounted signs are considered a component of the building to which

they are attached. The square footage of a building mounted sign is not a component of the maximum permitted per-lot signage square footage. They must otherwise comply with this ordinance.

h. Severability: If a provision or certain language of this sign ordinance becomes illegal, invalid, or unenforceable, that shall not affect the validity or enforceability of any other provision or language of this sign ordinance.

3. Exempt Signs:

a. Signs erected by governmental units or required by federal, state or local law are not subject to regulation by this ordinance.
b. Signs erected on the interior of a building that cannot be viewed from outside of the building are not subject to regulation by this ordinance.
c. Traffic control devices erected as a government permit requirement are not subject to regulation by this ordinance.
d. Street numbers associated with private residential homes.
e. Warning signs marking hazards on private property.

4. Prohibited Signs:

a. Signs or lighting of signs placed in such a position as to endanger vehicular or pedestrian traffic by interfering with vision, by obscuring a clear view or by confusion with official street signs or signals, by glare or by flashing light, or by other means.
b. Signs attached to trees, rocks, or other parts of a natural landscape, utility poles, fences, guardrails or other highway delineators are not permitted.
c. Signs on a vehicle or trailer unless such sign is a component of permitted on-site signage are not permitted.
d. Signs that may project over a public right-of-way or sidewalk unless the situation is such that the building to which the sign is attached is closer than five (5) feet from the public way or sidewalk are not permitted. In such situations the sign shall be at an adequate height so as not to be interfering with pedestrians, vehicular traffic, or snow removal.
e. Flashing signs, signs that flash, have motion, are animated, or create an illusion of movement are not permitted except as allowed in the electronic sign section of this ordinance.
f. No flashing signs are permitted in any district.
g. Signs for off-site uses are not permitted with the exception of permitted Directional or Complex signs.

5. Dimensional Table:

	Commercial	Industrial	Residential Multi-Family	Residential Single Family	Rural	Village
Signs Free-Standing – Maximum size*	49 sq ft	49 sq ft	49 sq ft	49 sq ft	49 sq ft	49 sq ft
Signs-Electronic Changing Sign	**All Zones – See Requirements Below**					
Signs Free-Standing - Setback from All Property Lines*	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet
Signs Free-Standing – Total square footage per tax lot	300	300	49	49	49	49
Signs Free-Standing – Number per tax lot	3	3	1	1	1	1
Signs Free-Standing – Maximum Height	25’	25’	25’	25’	25’	25’
Signs – Building Mounted	Maximum Height not to exceed constructed roof-line of the structure to which it is attached. Building mounted signs shall be below the eave of a hip, gambrel, or other pitched roof building, or below the main roof deck line of a building with a mansard roof. Constructed roofline shall not include any chimneys, stacks, steeples, antennas, roof-mounted equipment, walkways, enclosures or other such protuberances above the ridge line.					

*Also See Complex and Directional Sign Standards

6. Electronic Changing Signs Regulations:

This sign's message may be changed by the electronic switching of lamps, illuminated tubes, bulbs and/or through the apparent movement of light. These signs are capable of storing and/or displaying single or multiple messages in various formats at varying intervals. Electronic changing signs are permitted in the Commercial and Industrial Zones only. Electronic changing signs may be freestanding sign or building mounted, one or two-sided, may be a component of a larger sign or billboard, and shall conform to the following minimum requirements along with all other requirements for signage within this ordinance.

a. Definitions relevant to Electronic Changing sign/billboard:

BRIGHTNESS - Also known as "intensity"; the LED Industry measures display intensity in candelas per square meter, which is also referred to as "NITS."

DIMMING - The ability to increase or decrease the overall display intensity brightness.

DIODE - Also called "light-emitting diode" (LED) or "surface-mounted diode" (SMD).

LED (LIGHT EMITTING DIODE/SMD) - A solid-state component that uses a semiconductor (a silicon chip or some type of semiconductor) that emits visible light when electric current passes through it.

LUMINANCE - The amount of light that passes through or is emitted from a particular area. The SI unit for luminance is candela per square meter.

NIT or NITS - A luminance-measuring unit equal to one candela (one candle) per square meter measured perpendicular to the rays from the source.

SI UNIT - An abbreviation for the International System of Units.

TEXT – Any form in which writing exists.

b. No more than one electronic changing sign shall be allowed per lot.

c. Electronic changing signs shall not exceed 32 square feet. Electronic changing signs shall be restricted to a maximum of four lines of text or message display, and text shall be restricted to a maximum of 10 inches in height.

d. Electronic changing signs shall be required to have a minimum of 150 feet between other electronic changing signs located on the same side of a street or roadway.

e. Electronic changing signs shall be allowed only on lots with a minimum street frontage in accordance with the Table of Minimum Dimensional Requirements.

f. Electronic changing signs shall be located a minimum of 200 feet from any off-site residential dwelling unit.

g. All illumination elements on the face of electronic changing signs shall remain at a fixed level of illumination for a period of not less than 1 minute.

h. All text and message displays of an electronic changing sign shall fade onto and off of the electronic message display area, statically and uniformly, at a rate of change of no more than two seconds.

i. Electronic changing signs shall be equipped with automatic dimming controls, so the brightness level will be highest during the day and lowest at night. Manufacturer specifications shall be submitted at the time of sign permit specifying maximum sign brightness. The maximum brightness shall not exceed 8,000 NITS with a maximum nighttime reading not to exceed 20% of the sign's maximum brightness.

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

   1. The sign to be installed meets all of the criteria set forth in the subsection; and
   2. That the sign shall operate in a manner consistent with the criteria set forth in this subsection; and
   3. The landowner and applicant agree to be held liable, separately or collectively, if these provisions are not met, for any fines or cost incurred by the Town of Belmont to enforce these provisions arising from such violations. This provision shall not be construed to supersede any other responsibility or remedy for such violations set forth in this chapter.

7. Directional Sign Standards:

This section shall regulate the standards for Directional signs. The intent is to provide a means for the public to locate uses off the State highways by providing the opportunity for off-site directional signs while promoting and protecting the safety and aesthetics of the Town.

Sign size shall not exceed two (2) square feet and shall be placed no closer than

one (1) mile apart. The number of signs per use will be further restricted to those required to direct traffic from the closest State Highway. Signs shall be located on land outside the traveled right-of-way and with written permission from the lot owner on which the sign is erected and shall meet the required setbacks. The square footage of Directional signs shall be used in calculating the total square footage for the lot on which the sign is located.

a. Only one use per tax lot is allowed directional signs.
b. Directional signs are allowed for all legal uses. Uses shall be categorized as:
    1. Permanent - meaning any use operates on the site year-round.
    2. Seasonal - meaning any use which operates on the site less than year-round. Directional signs for seasonal uses shall be removed during that time the use is not operating.
c. Each proposed Directional sign must obtain a sign permit. Signs must be free-standing, located in accordance with these requirements of this ordinance, must be maintained in a safe and legible condition, and shall include only the name of the use for which the sign is used.

8. Complex Sign Standards:

Complex signs shall be constructed and placed in accordance with this Ordinance for the purpose of identifying a complex of primary commercial uses. Uses shall be located on a single lot or on two or more contiguous lots served by a common road or driveway and shall contain two or more separate primary commercial uses or buildings. Sign shall be located on property contained as part of the complex. Sign shall identify the complex and identify, by name and/or logo only, each primary commercial use in the complex. Such signs may exceed 49 square feet but must otherwise meet the requirements of the ordinance.

9. Definitions:

Electronic Changing Sign - electronic message center (EMC), electronic message sign (EMS) and changeable copy board (CCB), signs that display illuminated messages that can change frequently, can flash, display and/or convey messages in text, graphics, pictures, symbols, multiple colors, rhythms, animation and/or patterns.
Flashing Sign - Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever; does not include Electronic Changing Sign as regulated by this ordinance.
Sign – A name, identification, description, display or illustration, which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface which directs attention to or is designed or intended to direct attention to the sign face or to an object, product, place, activity, person, institution, organization or business.
Sign Off Site - sign, constructed and placed in accordance with this Ordinance, advertising a use not occurring on the same lot.
Sign On Site - sign, constructed and placed in accordance with this Ordinance, advertising a use occurring on the same lot.

J. AGRICULTURAL ANIMALS

Agricultural animals, as defined by this ordinance, require minimum facilities and care as defined herein.

1. A minimum lot size of one acre is required.
2. Animal buildings, keeping areas and waste material storage areas shall be a minimum of 50' from all property lines, wells, water bodies and wetlands areas. Grazing areas are not subject to the 50’ setback, but animals shall be prevented from accessing wetlands and water bodies.
3. All grazing and keeping areas shall be adequately fenced to contain the animals.
4. Noise and odors should not exceed those levels expected from normal operating procedures following best management practices. No pollution or contamination shall result from surface water runoff.
5. Uses shall comply with the requirements of NH RSA 435:14 relating to shelter for horses.
6. Siting and operation shall be subject to the application of the NH Department of Agriculture, Markets and Food Manual of Best Management Practices (BMPs) for Agriculture in New Hampshire, dated April 2002, as amended.

K. ENCLOSURES

No enclosure not originally manufactured or built for the purpose shall be used as dwelling space, commercial or non-commercial workspace, or animal or human shelter.

L. RETAINING WALL

Retaining Walls in excess of four feet (4’) in height as measured from the average finished grade immediately surrounding the wall, requires a building permit. Retaining Walls are exempt from the setbacks contained in this Ordinance.

M. SOLAR SYSTEM REQUIREMENTS

1. A fixed ground-mounted Residential Solar system shall not exceed 15 feet in height at any point. A tracking ground-mounted Residential Solar system shall not exceed 20 feet in height at any point. Roof mounted solar collection systems shall be exempt from building height limitations.
2. Solar Collections Systems shall be installed so as not to create a glare hazard on roadways or excessive glare to abutting properties.
3. Noise generated by Solar Collection Systems shall comply with the Town of Belmont Noise Ordinance limits

ARTICLE 5. ZONING DISTRICT REGULATIONS

A. Permitted Uses and uses permitted through Special Exception for each district are shown in Table 1.

B. Lot Requirements for each district are shown in Table 2.

ARTICLE 5. - TABLE 1
Zoning District Regulations
Table of Permitted Uses

Note: P=Permitted Use; E=Special Exception Necessary; N=Not Permitted; CU = Conditional Use.

	Commercial	Industrial	Residential Multi-Family	Residential Single Family	Rural	Village
Commercial Uses						
Accessory Building/Use	P	P	P	P	P	P
Activity related to the removal of sand, gravel, loam or stone for commercial purposes	P	P	P	P	P	P
Agricultural Animals (Lots 3 acres & larger)	E	E	P	P	P	E
Agricultural Animals (Lots less than 3 acres)	E	E	P	P	P	E
Agritourism	P	P	P	P	P	P
Aircraft Landing Area	E	E	E	E	E	E
Alternative Treatment Centers	SE	CU	N	N	N	N
Boat Sales & Service	P	P	N	N	E	N
Boat Storage Facilities-Exterior	E	N	N	N	N	N
Boat Storage Facilities-Interior	P	P	N	N	E	N
Business & Professional Offices	P	P	N	N	E	P
Campgrounds	P	N	N	N	E	N
Campground RV Resort	N	N	P	N	P	N
Commercial Greenhouses	P	P	E	E	E	E
Contractor's Yard	P	P	N	N	E	N
Cultivation location	CU	CU	N	N	N	N
Diner, Restaurants, Taverns	P	P	E	N	P	P
Equestrian Centers, Stables	E	E	N	N	P	N
Essential Services Public, Private Utility Suppliers	P	P	P	P	P	P
Funeral Homes	N	N	P	P	P	P
Hotel/Motel	P	E	N	E	E	E
Laundry, Dry Cleaners	P	P	N	N	N	P
Licensed Hawking & Peddling	P	P	N	N	N	P
Lumber Yards	P	P	N	N	N	N
Manufactured Housing Sales Lots	P	N	N	N	N	N
Manufacturing - Light	P	P	N	N	N	N
Medical and Dental Offices	P	N	N	N	N	P
Motor Vehicle & Trailer Services, Sales, Repair, Gas Stations and Parts Sales	P	P	N	N	E	E
Movie Theaters	P	N	N	N	N	P
Personal Wireless Service	E	E	N	N	E	N
Radio and Television Installations	E	E	N	N	E	N
Recreational Facilities-Indoor	E	E	P	P	P	P
Recreational Facilities-Outdoor	E	E	E	N	E	E
Repair Services, Machine Shops, Small Assembly	P	P	N	N	E	E
Resource Recycling	P	P	N	N	E	N
Retail Sales	P	P	N	N	N	P
Sales lot – Satellite	P	P	N	N	N	N
Sawmills	E	P	N	N	E	N
Service Business	P	E	E	N	E	P

	Commercial	Industrial	Residential Multi-Family	Residential Single Family	Rural	Village
Site Construction Trailer	P	P	P	P	P	P
Sludge/Biosolids	N	N	N	N	N	N
Solar – Agricultural	P	P	P	P	P	P
Solar – Commercial	P	P	N	N	SE	N
Storage Vehicles, Trailers, and Containers	P	P	P	P	P	N
Treated Soils (add'l SE criteria Art 13)	E	E	N	N	N	N
Veterinary Clinics, Boarding Kennels	P	N	N	N	E	N
Warehousing/self-storage-Exterior	E	N	N	N	N	N
Warehousing/self-storage-Interior	P	P	N	N	E	N
Industrial Uses:						
Accessory Building/Use	P	P	P	P	P	P
Blast Furnaces	N	N	N	N	N	N
Cultivation Locations	CU	CU	N	N	N	N
Fertilizer Plants	N	N	N	N	N	N
Manufacturing – Heavy	N	P	N	N	N	N
Municipal Solid Waste Transfer Station	N	P	N	N	N	N
Petroleum & Propane Gas Bulk Storage Fac.	E	P	N	N	N	N
Processing of Ammonia, Chlorine Petroleum or Explosives	N	N	N	N	N	N
Rendering Plants	N	N	N	N	N	N
Salvage/Junkyards including automobile, truck, bus, machinery, metal	N	P	N	N	E	N
Slaughter Houses	N	N	N	N	N	N
Smelters	N	N	N	N	N	N
Storage Vehicles, Trailers, and Containers*[1]	P	P	P	P	P	N
Tanneries	N	N	N	N	N	N
Treated Soils (add'l SE criteria Art 13)	E	E	E	E	E	E
Truck Terminal	E	P	N	N	N	N
Institutional Uses:						
Accessory Building/Use	P	P	P	P	P	P
Assisted Living Facility	E	N	N	N	E	E
Cemeteries, Private Burial Grounds, and Burials on Private Property	N	N	N	N	P	N
Churches	P	P	P	P	P	P
Fraternal & Social Clubs, Halls	N	N	P	P	P	P
Hospitals/Clinics	P	N	N	N	E	P
Licensed Day Care Facilities	P	P	P	P	P	P
Nursing & Convalescent facilities	P	N	N	N	E	P
Schools, Public & Private	N	N	P	P	P	P
Residential Uses:						
Accessory Dwelling Unit	N	N	P	P	P	P
Accessory Building/Use	P	P	P	P	P	P
Agricultural Animals (Lots 3 acres & larger)	E	E	P	P	P	E
Agricultural Animals (Lots less than 3 acres)	E	E	E	P	P	E

	Commercial	**Industrial**	**Residential Multi-Family**	**Residential Single Family**	**Rural**	**Village**
Agriculture, Forestry Management	P	P	P	P	P	P
Bed & Breakfast Establishment	P	N	E	E	E	E
Open Space Development	N	N	P	P	P	P
Open Space Development (Parent Tract Under 10 Acres)	N	N	N	N	N	E
Dwelling – Accessory to Residential Use	N	N	P	P	P	P
Dwelling – Multi-Family	N	N	P	N	N	P
Dwelling – Single Family	N	N	P	P	P	P
Dwelling –Subordinate To Non-Residential Use, owner occupied	P	P	N	N	N	N
Dwelling –Subordinate To Non-Residential Use, occupied other	CU	CU	N	N	N	N
Dwelling – Two Family	N	N	P	N	P	P
Half-way House	E	N	N	N	N	E
Home Occupations	P	P	P	P	P	P
Lodging House	N	N	E	E	E	E
Manufactured Housing-Dwelling (outside of approved park or approved subdivision)	N	N	N	N	N	N
Manufactured Housing Parks & Subdivisions	N	N	P	N	P	N
Shared-homes, Group-living Units	P	N	N	N	E	P
Solar – Residential	P	P	P	P	P	P
Storage Vehicles, Trailers, and Containers	P	P	P	P	P	N

Nonconforming Uses REFER TO ARTICLE 11

1. Storage vehicles, trailers, and/or shipping containers shall be limited to a total of two (2) with a maximum of 640sf per lot in the Residential Multi Family, Residential Single Family, and Rural Zones. Storage vehicles, trailers, and/or shipping containers shall be limited to a total of 640sf per lot four (4) with a maximum of 1,280sf per lot for lots less than five acres; and six (6) with a maximum of 1,920sf for lots five acres or greater in the Commercial and Industrial Zones. Storage containers shall not exceed 10 feet in height in any zone.

ARTICLE 5. - TABLE 2
Zoning District Regulations
Dimensional Regulations

	Commercial	Industrial	Residential Multi-Family	Residential Single Family	Rural	Village
Minimum lot size in Acres. Must also comply with the requirements of the Belmont Subdivision Regulations.	2	2	1	1	3	0.5
With Municipal Sewer	1	1	1	1	3	0.5
With Municipal Sewer & Water	0.5	0.5	1	1	3	0.5
Maximum dwelling units per acre			2	1	.33	2
Minimum Frontage (in feet)	200	200	150	150	180	100
With Municipal Sewer	150	150	150	150	180	80
With Municipal Sewer & Water	100	100	150	150	180	80

Minimum Structure Setbacks from Property Line (in feet) [1,2,3,4,5,6,11,12,13]						
	Commercial	Industrial	Residential Multi-Family	Residential Single Family	Rural	Village
Front[7]	50	50	50	50	50	25
Side[8,9]	15	15	25	25	50	25
With Municipal Sewer	15	15	25	25	50	20
With Municipal Sewer & Water	15	15	25	25	50	20
Rear (All) [8,9]	20	20	25	25	50	25
Minimum Setback Between Unrelated Structures Contained on One Lot [10] (Also Art 8.B.)	30	30	30	30	30	30
Percent of Lot Coverage (non-green area)	75%	75%	60%	60%	30%	60%

[1] Exempt from setback requirements above: An open, railed ramp medically necessary to provide reasonable accommodation to allow a person or persons with a recognized physical disability to reside in or regularly use the premises, provided that the exemption shall survive only so long as the particular person has a continuing need to use the premises.

[2] Exempt from setback requirements above: An open or railed platform, not exceeding 4'x4' used to access directly into structure from ground level, stairs or ramp. Stairs or ramp used in conjunction with platform or other allowed entrance may not extend more than 6’ from the platform or entrance.

[3] Exempt from setback requirements above: Functional roof overhangs, not exceeding 24" beyond the building footprint.

[4] Lots that abut zone change line(s) must comply with the setback criteria of the more restrictive of the abutting zones only along that line(s).

[5] Minimum Structure Setbacks from lakes, rivers, streams and brooks (in feet) shall be as determined by the Belmont Wetlands Conservation Ordinance. All criteria within the Belmont Wetlands Conservation Ordinance shall also be complied with.

[6] Construction, excavation and building shall comply with the setbacks from Cemeteries, Burial Sites and Burial Grounds as required by NH RSA 289:3 as amended (25' eff. Aug. 7, 1994).

[7] The front setback from the property line for all lots located on Rte 106 and Rte 140 is 50 feet.

[8] Minimum structure setback requirements from side and rear property lines on a preexisting, nonconforming lot shall be reduced to one-half of the side or rear property line setback required for that Zone in Table 2 above, whichever is less.

[9] Minimum structure setback requirements from side and rear property lines may be reduced by 50% for accessory buildings not exceeding 300 sq.ft. in total floor area and 14' in height unless a setback reduction has already been allowed under the nonconforming lot setback reduction above or if the property benefits from already-reduced Open Space setbacks.

[10]Single story structures constructed with sheet rock or equal fire stop capacity walls and ceilings may further reduce the required setback as allowed in Article 8.B.9.f.

[11]Exempt from property line setbacks: structures erected to enclose cluster mailbox delivery units.

[12]Exempt from property line setbacks: bus stop shelters.

[13]Exempt from property line setbacks: structures required by law for aboveground fuel tanks.

A. All non-residential uses located on a property containing more than one zone shall conform to the stricter dimensional regulations applied to the whole parcel.

B. Common or amenity lots, permanently preserved as open space may be exempted from the minimum frontage and lot size requirements at the discretion of the Planning Board, but shall be accessed by a permanent Right-of-Way no more than 30 feet wide.

ARTICLE 6. OPEN SPACE RESIDENTIAL DEVELOPMENT

A. PURPOSE AND OBJECTIVES

The purposes of open space development are to:

1. encourage the use of open space subdivisions as a cost effective and efficient form of residential use.
2. promote the permanent preservation of open areas which exhibit significant characteristics based on size, configuration, substance, location or other value determined by the Planning Board.
3. avoid development of sites that have poor soil conditions, high water tables, are subject to flooding, or have excessively steep slopes
4. promote the rural and village characteristics of the town and encourage residential development which promotes a sense of neighborhood
5. link adjacent open spaces and provide for continuance of recreational trail systems and greenways.
6. promote the most efficient use of land in harmony with its natural features
7. discourage development sprawl
8. preserve undeveloped frontage along existing roads, protecting transportation corridors from encroachment of structures and congestion

In order to accomplish the above-stated purposes, the objectives of this ordinance are to:

9. reduce impacts and strains on public and emergency services
10. provide greater land subdivision flexibility for larger parcels of land
11. allow a density no greater than that allowed for traditional subdivisions under the applicable zoning district
12. allow reductions in lot sizes, frontages, and setbacks
13. cluster buildings with lots serving to buffer permanently open space.
14. create an overall design consistent with surrounding landscaping, traffic patterns and character
15. provide for a balance of community needs, such as recreation areas, pedestrian safety and access including pedestrian-sensitive roads, trails and pathways and vehicular safety
16. provide for the effective and efficient installation of common utilities

B. STANDARDS

1. **Parent Tract(s):** Open space project may initially consist of one or more parent tracts. Tracts must total a minimum of ten acres. Frontage must consist of a minimum of 50’ on a town- or state-maintained road. The parent tract(s) shall not have been adjusted by subdivision or boundary line adjustment within 12 months of the date of making application under this section.
2. **Development Roads:** Shall be interior roads designed to promote the purpose and objectives of this ordinance and conform to the requirements of the Belmont Subdivision Regulations.

3. **Lots:** All lots must access from interior development roads. Lots may not front directly on water bodies or water courses. All lots need not necessarily be reduced in size or frontage as compared to lots in a conventional subdivision. The Planning Board encourages a diversity of lots and styles so as to ensure that a diversity of housing types and lifestyles remains available in the Town.
4. **Lot Frontage:** Shall be as indicated in Table 3. Lots with any portion of their frontage on a cul-de-sac shall adhere to the frontage requirements contained in the Belmont Subdivision Regulations.
5. **Density:** Shall be the same as for traditional subdivisions. The total available lot size (does not include any acreage for the road ROW or any other acreage that will not be part of a lot or the open space) divided by the *Minimum lot size in acres* indicated for that zone in Table 2 of this Ordinance rounded down to the nearest whole lot number. Individual lots must also comply with the requirements of the Belmont Subdivision Regulations.

   The Planning Board may approve a density bonus not to exceed 20% more building lots for the provision of one or more exceptional public benefits, namely:
   (a) conserving more of the buildable land as open space as depicted in Table 3;
   (b) providing significant public access to trails or dedicated conservation areas;
   (c) providing 300' setback from all building lots to rivers and ponds;
   (d) conserving 80% of the prime agricultural soils;
   (e) transfer of fee title to and acceptance by Town.
   (f) preservation of exceptional natural resource or wildlife habitat.
6. **Allowed uses:** Single family, two family, and multi-family uses may occur as allowed in each district under this ordinance. Additional lot size may be required by the Planning Board during subdivision review for lots with more than one dwelling unit. Incidental recreational uses.
7. **Septic:** For lots not serviced by sewer, individual septic systems may be constructed and shall be located on the individual lot being served. Community septic systems may be allowed but must be located within the 20% permanent open space available for incidental development
8. **Wells:** Lots may be served by individual wells located on each lot or by community well(s) located in the 20% permanent open space available for incidental development
9. **Phasing:** The open space development of the parcel(s) may be phased. A conceptual plan of the entire parcel(s) development must be submitted at the time of the first application. Also, at the time of the first application any areas depicted as future phases shall be restricted to future open space development or as an addition to approved permanent open space. The permanent open space dedicated to each phase must be delineated on the plan at the time of approval for that phase. A conceptual plan is subject to modification and review and approval under the then current Regulations and Ordinances at the time that future Phase of the development is presented to the Town for formal review and approval.

ARTICLE 6. - TABLE 3
Minimum Lot Area and Frontage
Requirements for Open Space Development

	Residential Multi-Family	Residential Single-Family	Rural	Village
Minimum Lot Area: (must also comply with Belmont Subdivision Regulations)	20,000 sf	20,000 sf	30,000 sf	18,000 sf
Maximum Lot Area: (unless otherwise required by NH DES) *of minimum zoning lot size	150%*	150%*	150%*	150%*
Frontage:	80 ft	80 ft	100 ft	80 ft
Setback:				
Side	25 ft	25 ft	25 ft	20 ft
Rear	25 ft	25 ft	25 ft	25 ft
Front (Non-thru development road)	25 ft	25 ft	25 ft	25 ft
Front (Exterior non-development rd)	50 ft	50 ft	50 ft	25 ft
Percentage of total lot required to be permanently open	25%	25%	50%	25%
Percentage of total lot required to be permanently open to qualify for density bonus	50%	50%	60%	40%

C. PERMANENT OPEN SPACE

1. Permanent open space shall be designated as either:
   a. primary open areas include non-buildable areas such as water bodies, water courses, wetlands, slopes in excess of 25%, and ledge outcroppings; or
   b. secondary open areas include significant features such as mature woodlands, prime agricultural soils, farmland, natural meadows, critical wildlife habitat, sites of historic, cultural or archeological significance, buffers to primary open areas, views, and high-risk groundwater protection zones.
2. A minimum of 50% of onsite prime agricultural soils must be preserved as permanent open space.
3. A minimum of 50% of the permanently open area required in Table 3 must be buildable (i.e. non-primary open area).
4. open space shall be planned as large contiguous units whenever possible. Strips or narrow parcels of common space shall be permitted only when necessary for access or required buffer.
5. A minimum 50’ permanent open space natural buffer must be designed between proposed building lot lines and water bodies and water courses.
6. Of the total amount of permanent open space, up to 20% may be used for recreational uses, community well and/or septic facilities, village greens, or other open uses incidental to the development. This area may be in more than one piece. The remaining open area shall remain in its natural state, although recreation trails and pathways are allowed, or shall be used as intended based on its significant features. This area may also be in more than one piece, provided that the size, shape and location are suitable to support and protect the designated significant feature.

7. All permanent open space areas shall be protected by legal arrangements, satisfactory to the planning board, sufficient to assure its maintenance and preservation for the designated purpose. It shall be owned in one of the following manners:
   a. By the Town of Belmont, subject to acceptance by the Town.
   b. By the State of New Hampshire for permanent open space uses.
   c. By a private, nonprofit organization (such as the Nature Conservancy, Lakes Region Conservation Trust, Society for Protection of NH Forests, or Audubon Society), which has as its purpose the preservation of open space through ownership and control and has the financial and organizational means for perpetual stewardship; provided, however that access to the common open space is available for appropriate recreational uses as approved by the Planning Board.
   d. By a private, nonprofit corporation, association or other nonprofit legal entity such as homeowner's association, established by the applicant for the benefit and enjoyment of the residents of the subdivision and over which said residents have control.

   Conveyances of land to the Town or State, under Section C.7.a. or b. of this Article, will be subject to permanent deed restrictions. Conveyances of land to private entities, under Section C.7.c. or d. will be subject to a permanent conservation easement granted to the Town of Belmont or an organization qualified under Section C.7.c. or d. above and recorded at the Belknap County Registry of Deeds. Provisions of such deed restrictions or conservation easements are subject to the approval of the Planning Board and shall include:
   (a) no further subdivision,
   (b) no residential or industrial development,
   (c) no roads or commercial uses except for agriculture, forestry or outdoor recreational activities conducted according to best management practices.
8. The area of roads and road rights-of-way shall not be used as part of the minimum required permanent open space calculation.
9. Permanent open space shall be established, owned, protected, and maintained in a manner approved by the Planning Board. Enforcement of development restrictions shall be as provided in this Ordinance, the Belmont Subdivision Regulations and the NH RSAs including RSA 674:21-a.
10. Permanent open space will be accessible to all lot owners, either directly or by approved access easement.
11. General public access to the Open Space will not be required unless the land is conveyed in fee simple interest to the Town or State, or a specific public trail corridor easement is proposed, or if a density bonus was granted by the Planning Board based on Article B.5.b. Except in the aforesaid cases, the rights to post land and limit public access will remain with the landowner.
12. In further evaluating how the proposed Open Space meets the Purpose and Objectives of this Ordinance the Planning Board shall consider the extent to which the location and design of the area achieves these objectives:
   (a) Large enough blocks of land are conserved to retain ecosystem function and habitat integrity;
   (b) Large enough blocks of land are conserved to sustain agricultural or forestry operations and buffer them from nearby development;

(c) For trail or stream corridors, and shoreland, wide enough buffers are provided from building lots (minimum of 75 feet);
(d) Access to and/or benefits from the open space are provided to the greatest number of lots within the subdivision;
(e) Linkages or contiguity with existing or potential Open Space on abutting properties are provided;
(f) Scenic views from public roads and prominent ridgelines are conserved as much as possible; and
(g) Objectives of Article 6.A. that are most creatively and successfully achieved.

ARTICLE 7. AQUIFER AND GROUNDWATER PROTECTION DISTRICT

A. AUTHORITY

The Town of Belmont hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II relative to innovative land use controls.

B. PURPOSE

The purpose of this ordinance is, in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas.

The purpose is to be accomplished by regulating land uses which could contribute pollutants to wells and/or aquifers designated as being needed for present and/or future public water supply.

See Article 7.E for applicability to preexisting uses.

C. DEFINITIONS

1. **Aquifer:** a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water.
2. **Gasoline station**: means that portion of a property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and distributed for the purposes of retail sale of gasoline.
3. **Groundwater**: subsurface water that occurs beneath the water table in soils and geologic formations.
4. **Impervious**: not readily permitting the infiltration of water.
5. **Impervious surface**: a surface through which regulated substances cannot pass when spilled. Impervious surfaces include concrete unless unsealed cracks or holes are present. Asphalt, earthen, wooden, or gravel surfaces, or other surfaces which could react with or dissolve when in contact with the substances stored on them are not considered impervious surfaces.
6. **Junkyard**: Includes Junkyards as defined by RSA 236:112, including the definition of junk found in RSA 236:91,II, and Automotive Recycling Yards as defined by RSA 236:91.
7. **Outdoor storage**: storage of materials where they are not protected from the elements by a roof, walls, and a floor with an impervious surface.
8. **Petroleum bulk plant or terminal**: means that portion of the property where petroleum products are received by tank vessel, pipeline, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline tank car, tank vehicle, portable tank, or container.
9. **Public water system**: a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year.
10. **Regulated substance**: petroleum, petroleum products, and substances listed under 40

CFR 302, 7-1-05 edition, excluding the following substances: (1) ammonia, (2) sodium hypochlorite, (3) sodium hydroxide, (4) acetic acid, (5) sulfuric acid, (6) potassium hydroxide, (7) potassium permanganate, and (8) propane and other liquefied fuels which exist as gases at normal atmospheric temperature and pressure.

11. **Sanitary protective radius**: The area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water systems); Env-Dw 372.14 and Env-Dw 373.12 (for other public water systems).
12. **Seasonal High Water Table (SHWT)**: means the depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other professional approved by the Planning Board through the use of wells or test pits that extend to either the SHWT, ledge, or to a minimum of six feet below the maximum proposed excavation depth or other method approved by the Planning Board.
13. **Secondary containment**: a structure such as a berm or dike with an impervious surface which is adequate to hold at least 110% of the volume of the largest regulated-substances container that will be stored there. Secondary containment areas must be covered if regulated substances are stored outside.
14. **Snow dump**: For the purposes of this ordinance, a location where snow which is cleared from off-site roadways and/or off-site motor vehicle parking areas is placed for disposal.
15. **Stratified-drift aquifer**: A geologic formation of predominantly well-sorted sediment deposited by or in bodies of glacial meltwater, including gravel, sand, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells.
16. **Surface water**: streams, lakes, ponds and tidal waters, including marshes, water-courses and other bodies of water, natural or artificial.
17. **Wellhead protection area**: The surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield.

D. AQUIFER AND GROUNDWATER PROTECTION DISTRICT

The Aquifer and Groundwater Protection District is an overlay district which is superimposed over the existing underlying zoning and includes within its boundaries the Stratified Drift Aquifers and municipal well head protection areas shown on the map entitled "Town of Belmont Aquifer and Groundwater Protection District", adopted concurrent with this Ordinance.

E. APPLICABILITY

This Ordinance applies to all uses in the Aquifer and Groundwater Protection District, except for those uses exempt under Article 7.J (Exemptions) of this Ordinance.

Preexisting uses shall comply with Article 7.F, Performance Standards, 1 thru 7. In addition,

preexisting Conditional Uses shall comply with Performance Standard 8.c. Preexisting uses shall otherwise be regulated under Articles 1 and 10 of the Zoning Ordinance.

F. PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Aquifer and Groundwater Protection District unless exempt under Article 7.J:

1. Animal manures, fertilizers, and compost must be stored in accordance with Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;

2. All regulated substances stored in containers with a capacity of 5 gallons or more must be stored in product-tight containers on an impervious surface designed and maintained to prevent flow to exposed soils, floor drains, and outside drains;

3. Facilities where regulated substances are stored must be secured against unauthorized entry by means of a door and/or gate that is locked when authorized personnel are not present and must be inspected weekly by the facility owner. A copy of the inspection log will be submitted to the Planning Board with required periodic facility inspection reports.

4. Outdoor storage areas for regulated substances, associated material or waste must be protected from exposure to precipitation and must be located at least 50 feet from surface water or storm drains, at least 75 feet from private wells, and outside the sanitary protective radius of wells used by public water systems;

5. Secondary containment must be provided for outdoor storage of regulated substances if an aggregate of regulated substances exceeding 5 gallons are stored outdoors on any particular property;

6. Containers in which regulated substances are stored must be clearly and visibly labeled and must be kept closed and sealed when material is not being transferred from one container to another;

7. Prior to any land disturbing activities, all inactive wells on the property, not in use or properly maintained at the time the plan is submitted, shall be considered abandoned and must be sealed in accordance with We 604 of the New Hampshire Water Well Board Rules.

8. In addition, Conditional Uses shall:

- **a.** Develop and submit a stormwater management and pollution prevention plan and shall include information consistent with Developing Your Stormwater Pollution Prevention Plan: A Guide for Industrial Operators (US EPA 2009). The plan shall demonstrate that the use will:
  - **1.** Minimize the release of regulated substances into stormwater through a source control plan that identifies pollution prevention measures;
  - **2.** Demonstrate that recharge to groundwater will not result in violation of Ambient Groundwater Quality Standards (Env-Ws 410.05) at the property boundary;
  - **3.** Stipulate that expansion or redevelopment activities may, at the discretion of the Planning Board, require an amended stormwater plan;
  - **4.** Not infiltrate stormwater through areas containing contaminated soils without completing a Phase I Assessment in conformance with

ASTM E 1527-05, also referred to as All Appropriate Inquiry (AAI).

b. For any use that will render impervious more than 15% or more than 2,500 square feet of any lot, whichever is greater, a stormwater management plan shall also be consistent with New Hampshire Stormwater Manual Volumes 1-3, December 2008, NH Department of Environmental Service, and Aquifer Protection Best Management Practices, Tri-Town Aquifer Project Protecting Shared Drinking Water Resources, Lakes Region Planning Commission, April 2007.

c. For any use using regulated substances, a spill control and countermeasure (SPCC) plan shall be submitted to the Fire Chief who shall determine whether the plan will prevent, contain, and minimize releases from ordinary or catastrophic events such as spills, floods or fires that may cause large releases of regulated substances. The SPCC plan shall include:

1. A description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas;

2. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment;

3. A list of all regulated substances in use and locations of use and storage;

4. A prediction of the direction, rate of flow, and total quantity of regulated substance that could be released where experience indicates a potential for equipment failure;

5. A description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.

G. PERMITTED USES

All uses permitted by right or allowed by special exception in the underlying district that are also located within the Aquifer and Groundwater Protection District remain permitted by right or still require a special exception, as applicable, unless they are Prohibited Uses under this Ordinance.

Uses identified as Conditional Uses under this Ordinance also require a Conditional Use Permit. In the instance that both a Special Exception and a Conditional Use Permit are required, the Special Exception shall be approved prior to the Conditional Use Permit.

All uses must comply with the Performance Standards unless specifically exempt under Article 7.J.

See Article 7.E for applicability to preexisting uses.

H. PROHIBITED USES

The following uses are prohibited in the Aquifer and Groundwater Protection District:

1. The development or operation of a hazardous waste disposal facility as defined under RSA 147-A;
2. The development or operation of a solid waste landfill;
3. The outdoor storage of road salt or other deicing chemicals in bulk;
4. The development or operation of a junkyard;
5. The development or operation of a snow dump;
6. The development or operation of a wastewater or septage lagoon;
7. The development or operation of a petroleum bulk plant or terminal;
8. The development or operation of gasoline stations.
9. Sludge monofills;
10. Storage of animal manure unless covered or contained in accordance with the specifications of the Manual of Best Management Practices for Agriculture in New Hampshire, NH Department of Agriculture, Markets, and Food, August 2005, and any subsequent revisions;
11. Facilities that generate, treat, store, or dispose of hazardous waste subject to Env-Hw 500-900 except for:
  a. household hazardous waste centers and events regulated under Env-Hw 401.03(b)(1) and Env-Hw 501.01(b); and
  b. water remediation treatment works approved by NH DES for the treatment of contaminated ground or surface waters;
12. Non-sanitary treatment works which discharge to the ground and that are subject to Env-Wq 402, except the following:
  a. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  b. treatment works approved by NH DES designed for the treatment of contaminated groundwater.
13. Storage of regulated substances in greater than household quantities (i.e., 5-gallons), unless in a free-standing container within a building or above ground with secondary containment adequate to contain 110% of the container's total storage capacity;
14. Storage of fertilizers, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
15. Excavation or Mining within four feet of Seasonal High-Water Table. This prohibition applies to future excavation of existing sites as well as future excavation sites.

I. CONDITIONAL USES

The Planning Board may grant a Conditional Use Permit for a use which is otherwise permitted within the underlying district, if the permitted use is involved in one or more of the following:

1. Storage, handling, and use of regulated substances in quantities exceeding 100 gallons or 800 pounds dry weight at any one time, provided that an adequate spill prevention, control and countermeasure (SPCC) plan, in accordance with Article 7.F,8(c), is approved by the Code Enforcement Officer;
2. Any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater.

In granting a Conditional Use Permit:

a. The Planning Board must determine that the proposed use is not a prohibited use;

b. Conditional Uses shall also be in compliance with the Performance Standards in Article 7.F as well as all applicable local, state and federal requirements;

c. The Planning Board may, at its discretion, require a performance or other surety bond, in an amount and with conditions satisfactory to the Board, to ensure completion of construction of any facilities required for compliance with the Performance Standards.

J. EXEMPTIONS

The following uses are exempt from the specified provisions of this ordinance provided they comply with all other applicable local, state, and federal requirements:

1. Any private residence is exempt from all Performance Standards;

2. A mobile fuel tank specifically manufactured for the purpose of being transported from site to site for the purpose of fueling motor vehicles and/or equipment provided fuel transfers are conducted over an impervious area and utilize portable spill containment equipment with trained personnel present during transfers. Said tank, transportation and fueling shall comply with all other applicable Regulations.

3. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard 3;

4. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standards 3 through 6.

5. Storage and use of office supplies is exempt from Performance Standards 3 through 6;

6. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standards 3 through 6 if incorporated within the site development project within six months of their deposit on the site;

7. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance;

8. Household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Hw 401.03(b)(1) and 501.01(b) are exempt from Performance Standards 3 through 6;

9. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article 7.L of this ordinance.

K. RELATIONSHIP BETWEEN STATE AND LOCAL REQUIREMENTS

Whenever a provision of this ordinance differs from the requirements imposed by the State of New Hampshire, or by some other town ordinance, the provision which imposes the greater restriction or higher standard shall govern.

L. NOTICE OF DECISION AND INSPECTION

1. For uses or structures requiring planning board approval under this ordinance, a Notice of Decision including the construction, operational, and inspection conditions and minimum standards applied to said approval, shall be recorded at the Registry of Deeds for Belknap County so as to run with the land on which such uses or structures are located.

2. Inspections of all regulated uses may be required to verify compliance with Performance Standards. Such inspections shall be performed by the Planning Board's designated agent and shall be at the cost of the business owner.

ARTICLE 8. PERFORMANCE STANDARDS

A. WETLAND PROTECTION

Wetland area shall be protected under terms set forth in the Belmont Wetlands Conservation Ordinance. The wetland map is part of the wetland ordinance and shall apply to wetlands in any zoning district, regardless of individual district requirements. The Wetlands Conservation Ordinance is hereby made a part of this Ordinance as an Overlay Ordinance and shall be regulated accordingly.

B. MANUFACTURED HOUSING PARK & MANUFACTURED HOUSING SUBDIVISION

Manufactured Housing shall be located only within Manufactured Housing Parks & Manufactured Housing Subdivisions. Proposals for such Parks & Subdivisions shall be reviewed under the Subdivision Regulations. The following standards shall also apply:

1. Table 2 Dimensional Regulations shall apply except as amended herein.
2. Parks & Subdivisions shall be located on a minimum of twenty (20) contiguous acres.
3. Perimeter setbacks shall be the same as required in each zone.
4. Amenities such as playgrounds, tennis courts, swimming pools, etc., should be encouraged.
5. Phasing of a development may be allowed and the Planning Board shall review each phase prior to its construction. The original application shall outline the phasing sequence.
6. All public utilities shall be installed underground and shall meet the standards established by the Town.
7. A 75' deep vegetative screen shall be placed along exterior streets. A 50' deep vegetative screen shall be placed along abutting property lines.
8. All sites and lots must access onto an interior road system and not directly onto existing private or public access roads.
9. In addition, for all Parks:
    a. A maximum of two living units per acre shall be allowed. The total lot area shall be reduced by the amount of non-buildable area before determining the number of allowed units. Non-buildable areas, as example, include wetlands, slopes in excess of 15%, well head protection areas, services areas, areas dedicated to roads, utilities, septic, wells, play grounds and other amenities.
    b. Internal right of ways shall be a minimum width of 30 feet with at least 22 feet of paved surface.
    c. Each park shall have a maximum of two access points.
    d. Units in parks shall be tied to the municipal sewer system or to an approved park wide community septic system.
    e. In parks having defined site lines, all related structures shall be contained on the same site.
    f. Setbacks between unrelated structures to be as defined by this ordinance. The required 30 foot setback between unrelated manufactured housing units or their single story accessory structures may be reduced under the following circumstances:

(1) **SETBACKS:** For Manufactured housing units or their accessory structures which are constructed with sheet rock or equal fire stop capacity walls and ceilings the following setbacks shall apply.

(a) **SIDE SETBACK:** 20' from the side (long dimension) of a unit or structure and the closest enclosed extension of any unrelated unit or structure if at least one meets the construction minimums noted above. Nothing shall be placed within the 20' setback area (propane, fuel, sheds, etc.)

(b) **GABLE END SETBACK:** 15' between the gable ends of two unrelated units or structures if at least one meets the construction minimums noted above. Nothing shall be placed within the 15' setback area (propane, fuel, sheds, etc.)

(c) **OPEN DECKS SETBACK:** May be reduced to 15' between an open deck and the closest extension (open or closed) of any unrelated structure.

(2) **SETBACKS BETWEEN SHEDS:** May be reduced to 5' between unrelated sheds where each shed does not exceed 144 square feet and 8' in height. However, sheds shall remain a minimum of 20' from all other unrelated structures.

(3) **ENTRANCE LANDINGS SETBACKS:** Open, railed, entrance landings not exceeding 4'x4' with stairs running parallel to the unit to ground level are exempt from defined setbacks.

A 15 foot structure setback shall be maintained from internal, private park roads.

10. In addition, for all Subdivisions:
    a. Lots and roads shall conform to all the requirements of this Ordinance and the Subdivision Regulations that conventional single-family housing must meet for the zone in which the subdivision is located. These requirements include, but are not limited to, lot size, density and frontage. Open Space opportunities are encouraged.
11. Parks & Subdivisions shall conform in all other respects to the standards set forth in this Ordinance and other Town Regulations.

C. TEMPORARY MOBILE HOME/MANUFACTURED HOUSING PERMITS

The Planning Board may issue a permit for temporary use of a mobile home/manufactured housing as an office, storeroom or shop in connection with construction work, or for living quarters by a person employed in adjoining construction work, or for whom a residence is being built or repaired after damage sustained from fire or other disaster, in all zones, provided that such use is shown to be a temporary expedient and also that the use will comply with all applicable sanitary and sewage disposal requirements.

The following conditions shall apply to the granting of any temporary use permit:

1. A permit may be granted for a period not to exceed 180 days while construction is in progress.
2. The applicant shall provide a construction schedule showing that construction will be completed within the 180 day period. The schedule shall provide at a minimum for

completion and capping of a foundation within 90 days; initial framing within 120 days, and completion for occupancy within 180 days of the date the temporary use permit is issued.

3. Before a temporary use permit may be issued, a septic system and water supply must be in existence and be capable of being hooked up to the mobile home/manufactured housing. If a septic system and water supply is not in existence, a temporary use permit may be issued only after a septic design and well location have been approved by the New Hampshire Department of Environmental Services. Under no circumstances may physical occupancy occur until both systems are constructed and hooked up to the mobile home/manufactured housing. The mobile home/manufactured housing unit must also comply with all applicable Building and Safety Codes.
4. The applicant shall provide evidence of financial ability to complete the project within the schedule, in the form of bank or other financing or private funds. The Planning Board may require a bond or security in an amount and in such form as to assure removal of the mobile home/manufactured housing within the permit period if financial ability to complete the project is not otherwise assured.
5. The Planning Board may withdraw any temporary use permit at any time after 30 days from date of issue if the construction schedule of completion previously provided by the applicant is not met.
6. The Planning Board may extend the permit for a period not to exceed an additional 180 days, providing that substantial construction progress has been made.
7. The Planning Board may, under extraordinary circumstances involving weather or other extenuating circumstances, but not including circumstances of financial hardship, also extend a permit for a period not to exceed an additional 180 days when substantial construction progress has not been made.
8. A temporary use permit may under no circumstances be extended beyond 360 days from the date of initial issuance of the permit.

D. SHOREFRONT DEVELOPMENT

The purpose of this article is to provide for the regulation of shorefront development in order to protect water quality and to prevent overcrowding of shorefront in the interests of public safety and preservation of aesthetic values.

1. The minimum shore frontage on a lake or pond shall be measured by averaging the distance of the actual shoreline frontage and a straight line drawn between property lines, both of which are measured at the mean high water line. For shorefront development the minimum shore frontage shall be as follows:

    a. Each lot shall have a minimum shore frontage of - one hundred feet (100').
    b. For multi-family lots and campgrounds - one hundred feet 100') for the first four dwelling units and/or camp sites, plus, twenty feet (20') for each additional dwelling unit and campsite.

2. Shorefront common areas shall be regulated as follows:

    a. At least six hundred (600) square feet of beach recreation area abutting the shore frontage shall be provided for each dwelling unit and camp site.

b. At least one half of the minimum shorefront shall be reserved for swimming, and the swimming area shall be appropriately marked.
c. Docks for swimming and non-power boating shall be no larger than the minimum permitted by the rules of the New Hampshire Wetlands Board and/or permit conditions of the U.S. Army Corps of Engineers.
d. Where communal docking for power boats is proposed, there shall be 25 feet of shore frontage for each boat slip proposed. Such docks shall comply with the rules of the New Hampshire Wetlands Board and/or permit conditions of the U.S. Army Corps of Engineers.

3. Shorefront common areas for non-shorefront development shall include, but are not limited to, single family, two-family, multi-family or condominium development in which units are granted rights of access to a shorefront common area on a lake or pond, whether such rights of access are created by formal or informal agreement, by cooperative or stockholder ownership, by the provisions of RSA 356-B or by fractional fee simple ownership as joint tenants, tenants in common or otherwise; and whether such rights of access are created according to a common scheme of development or subsequent in time or incidental to the primary development. In addition to the general requirements of this Section, the following shall additionally apply to shorefront common areas for non-shorefront development:
a. A shorefront common area shall contain a minimum of one acre.
b. No dwelling units shall be constructed on the shorefront common area.
c. Every shorefront common area for units located in excess of 200' from the common area shall have at least one (1) permanent septic system and toilet facility approved by the New Hampshire Department of Environmental Services or connected to the Municipal sewer system.
d. Every shorefront common area shall have off-street parking at the rate of one space for each dwelling unit situated more than 1/4 mile from the shorefront common area. The parking shall be set back from the high water mark no less than fifty (50) feet and shall be buffered or screened from the waterfront and abutting property by vegetative screening as defined in the Zoning Ordinance.

E. ADULT ENTERTAINMENT AND SEXUALLY ORIENTED BUSINESSES

1. FINDINGS

The Belmont Planning Board has carefully reviewed several studies concerning the impact of adult entertainment and sexually oriented businesses on large and small communities across the United States. The Board has also gathered similar information concerning the impact of adult entertainment and sexually oriented businesses in New Hampshire. After thorough review and deliberation, the Board has found that the establishment and operation of adult entertainment and sexually oriented businesses often have harmful secondary effects on the community. These harmful secondary effects include, but are not limited to: increased crime, reduction in surrounding property values, increased noise, and a generally negative effect on the area's tourist based economy. The Board also finds that, while Belmont does not presently have any adult entertainment or sexually oriented businesses within its borders, it is not unlikely that it will in the future, and the community should be

prepared to regulate these uses to minimize their negative impact on the community.

2. AUTHORITY

Pursuant to the authority conferred by New Hampshire RSA Chapter 674:16, the Town of Belmont adopts the following ordinance regulating Adult Entertainment and Sexually Oriented Businesses. This ordinance shall be considered part of the Zoning Ordinance for the 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.

3. PURPOSE

It is the purpose and intent of this ordinance to regulate the harmful secondary effects of adult entertainment and other sexually oriented businesses, thereby promoting the health, safety, morals, and general welfare of the citizens of the Town, while still providing reasonable opportunities for the establishment of these businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative activities or materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of the ordinance to restrict or deny access by adults to sexually oriented materials protected by the First amendment, or to deny access by the distributors and exhibitors of such materials.

4. DEFINITIONS

Pursuant to this ordinance, the following definitions shall apply to sexually oriented businesses.

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

Adult Bookstore or Adult Video Store: means a business that devotes more than 15% of the total display, shelf rack, table, stand or floor area for the display, sale or rental of the following:

a. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, DVD's, slides, tapes, records, computer disks, CD-ROM's or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct"; or instruments, devices, or paraphernalia, which are designed for use in connection with "sexual conduct" as defined by NH RSA 571-B:1,IV., other than birth control devices.

b. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore or Adult Video Store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an Adult Bookstore or Adult Video Store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specific sexual activities" as defined by NH RSA 571-B:1,IV.

Adult Cabaret: means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

a. Persons who appear in a State of Nudity or Semi-Nudity; or
b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities" or;
c. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical area".

Adult Entertainer: means any person who provides live adult entertainment whether or not a fee is charged or accepted for entertainment.

Adult Entertainment: means any exhibition, performance or medium which is distinguished or characterized by:

a. Acts of masturbation, sexual intercourse or sodomy; or
b. Fondling or other touching of the human genitals, pubic region, buttocks or female breast; or
c. Human genitals in a state of sexual stimulation or arousal; or
d. Displays of less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola; or
e. Any exhibition, performance or dance conducted in a premises where such exhibition, performance or dance is performed within the view of one or more members of the public and is intended or is likely to sexually stimulate any member of the public;
f. Adult entertainment shall not include the following:
   (1) Plays, operas, musicals, or other dramatic works which are not obscene;
   (2) Classes, seminars and lectures which are held for serious scientific or educational purposes;
g. For this chapter, any exhibition, performance, dance or other medium is obscene if it meets the standards set forth in NH RSA 571-B:1.I.

Adult Material: means any one or more of the following regardless of whether new or used:

a. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, CD-ROMs or other

forms of visual or audio representations which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to "sexual conduct" as defined by NH RSA 571-B:1 or specified anatomical areas; or

b. Instruments, devices or paraphernalia which are designed for use in connection with "sexual conduct", as defined by NH RSA 571-B:1, other than birth control devices, or recognized medical procedures.

Adult Theater: means a theater, concert hall, auditorium or similar commercial establishment, either indoors or outdoors in nature, which regularly features the presentation of motion pictures, films, theatrical productions, and other forms of visual production, by persons who appear in a state of nudity or semi-nudity or live performances which are characterized by the exposure of "specified sexual anatomical areas" or by "specified sexual activities" which meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

Establishment: means and includes any of the following:

a. The opening or commencement of any sexually oriented business as a new business;
b. The conversion of an existing business whether or not a sexually oriented business, to any sexually oriented business;
c. The additions of any sexually oriented business to any other existing sexually oriented business; or
d. The relocation of any sexually oriented business.

Harmful to Minors: As defined in NH RSA 571-B:1, as may be amended.

Nudity or a State of Nudity: means the appearance of a human bare buttock, anus, male genitals, female genitals, or full female breasts.

Person: means an individual, proprietorship, partnership, corporation, Limited Liability Company, association, or other legal entity.

Semi-Nude: means a state of dress in which clothing is specifically designed to cover no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Conduct: As defined in NH RSA 571-B:1, as may be amended.

Sexual Encounter Center: means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex or;
b. Activities between two or more people when one or more of the persons is in a state of nudity or semi-nudity.

Sexually Explicit Material: see definition for - Adult Material.

Sexually Oriented Business: means an Adult Arcade, Adult Bookstore or Adult Video Store, Adult Cabaret, Adult Theater, or Sexual Encounter Center.

Specified Anatomical Areas: means the male genitals in a state of arousal or the vulva or more intimate part of the female genitals.

Specified Sexual Activities: see definition for – Sexual Conduct.

a. The fondling or other touching of human genitals, pubic region, buttocks, anus, or female breasts;
b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
c. Masturbation, actual or simulated; or
d. Excretory functions as part of or in connection with any of the activities set forth in a through c above.

Transfer of Ownership or Control: of a sexually oriented business means and includes any of the following:

a. The sale, lease, or sublease of the business;
b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

5. SITING STANDARDS

a. Subject to the site requirements set out below, sexually oriented business may be allowed in that portion of the Industrial District located south and east of the Laconia Road/Concord Street intersection, provided that it is otherwise lawful and meets all other zoning requirements.
b. For existing businesses in any district which sells sexually explicit goods, paraphernalia or adult materials, but does not meet the 15% threshold outlined in the definition of adult bookstore, such goods and paraphernalia shall be located either behind a counter, or in a separate room or enclosure where persons under the age of 18 are not allowed to enter. Such sexually explicit goods and paraphernalia must be located so that the materials in question are not within view of minors.
c. Site Requirements
    (1) No sexually oriented business use shall be located within 500 feet from any of the following (distance measured from the nearest property lines of each property):
        (a) A public, religious or private nursery school, kindergarten school, elementary school, middle school, junior high school, high school or similar educational facility.
        (b) Licensed Child Day Care Facility.

(c) A public park, public recreational field or any publicly owned property or facility.
(d) A religious institution or place of worship.
(e) Any existing residential dwelling.

(2) No sexually oriented business use shall be located within 1000 feet from the zoning boundary lines of the Village Zone (distance measured from nearest point of zoning district line to property line of sexually oriented business.).

(3) There shall be a minimum of 1,000 feet between any two sexual oriented businesses (distance measured from nearest property lines of each).

(4) The proposed site shall be required to be screened in such a manner that limits pedestrian and vehicular access to adjacent properties, but which does not restrict adequate lines of sight or create unsafe site conditions. This visual barrier shall be maintained by the owner of the property.

(5) There shall be sufficient parking as established by local and state fire, building, or health codes, whichever is greater.

(6) The site shall be maintained daily in a condition that is free and clear of any sexual paraphernalia or packaging.

(7) Signs shall not visually depict any person in a "State of Nudity" or "Semi-Nude", and no sexually explicit material, advertising or material deemed "harmful to minors shall be visible from outside the building.

(8) Sexually oriented businesses shall only be allowed in freestanding buildings devoted primarily to that use.

F. DWELLING UNIT ACCESSORY TO RESIDENTIAL USE

1. A dwelling unit accessory to residential use (adu) is a use permitted by right in the Rural, Residential Single; Residential Multifamily and Village Zoning Districts.
2. One dwelling unit accessory to residential use is allowed on a residential lot.
3. The accessory dwelling unit shall have a minimum of 300 square feet of net floor area. The accessory dwelling unit shall also not exceed 1,250 square feet of net floor area or forty percent (40%) of the sum of the net floor area of both the finished primary dwelling unit and the finished accessory dwelling unit whichever is larger.
4. An accessory dwelling unit does not require a separate Minimum Lot size (Article 5, Table Only one accessory dwelling unit per lot is allowed.
5. Accessory dwelling units are not permitted in multiple single-family developments where one or more single family dwelling units are attached, such as, but not limited to, condominium developments and duplexes.
6. Accessory dwelling units are not permitted within or as additions to manufactured housing units or recreational vehicle units.
7. Accessory dwelling units shall not be conveyed as a condominium unit separate from the principal unit.

8. The accessory dwelling unit may be physically attached to or incorporated within a principal residential structure, or incorporated in an attached or detached accessory structure to such principal residence.
9. The distance between an accessory structure containing an accessory dwelling unit and the nearest point of the enclosed living space of the principal residential structure shall not exceed 100 feet. An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit when attached.
10. Accessory dwelling unit shall include no more than two (2) bedrooms.
11. Accessory dwelling unit may be created either through the internal conversion of an existing housing unit or through the creation of a new principal dwelling unit/accessory dwelling unit structure.
12. Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the property.
13. The construction and occupancy of accessory dwelling unit shall not be detrimental to the neighborhood in which the lot is located by virtue of overcrowding or traffic congestion.
14. Means of egress for both the principal single-family residence and the accessory dwelling unit shall meet all applicable codes.
15. A building permit is required prior to creation/construction of the accessory dwelling unit and a Certificate of Occupancy is required prior to occupancy of the unit.
16. Off-street parking shall be provided as follows:

    a. 2 spaces - principal residence, 1 space - accessory dwelling unit;
    b. Parking spaces must be surfaced in a manner consistent with the neighborhood;
    c. Parking spaces required pursuant to this section shall not impede traffic, road maintenance or future road improvements.

17. All applications under this section shall demonstrate compliance with NHDES Wastewater Rules for sewage disposal and adequate provision for water, waste and drainage generated by the future occupancy of an accessory dwelling unit.
18. No exterior changes shall be made which do not conform to the character of the neighborhood.
19. Any application filed under this section shall include the following:
    d. Scaled plot plan showing location of existing structure.
    e. Detailed floor plan.
    f. Parking layout and yard area.
    g. Sketch any proposed expansion or change to the structure showing overall dimensions.
    h. Square footage of construction or alteration.
    i. Location and number of exits.
    j. Any additional information that will adequately describe the proposed work.

G. DWELLING UNIT SUBORDINATE TO NON-RESIDENTIAL USE

1. In the Commercial and Industrial Districts, one dwelling unit subordinate to non-residential use is allowed on a non-residential lot for occupancy limited to:
    a. the on-site commercial, industrial, or institutional business owner & family;

or

b. the on-site business manager & family or security person & family provided a conditional use permit is issued by the Planning Board in accordance with this Ordinance and the Site Plan Review Regulations.

2. A conditional use permit for a dwelling unit subordinate to non-residential use shall be subject to the following conditions:
   a. Owner of the property must complete and record in the Belknap County Registry of Deeds a Restrictive Covenant provided by the Planning Board stating the restrictions for occupancy of the dwelling.
   b. The subordinate dwelling unit conditional use permit expires upon termination of the primary non-residential use. The residential use shall cease and all facilities related only to the residential use shall be removed.
3. A dwelling unit subordinate to non-residential use shall not be considered a "single-family dwelling unit" for other purposes under this ordinance.
4. The dwelling unit subordinate to non-residential use shall have a minimum of 300 square feet of net floor area. The dwelling unit subordinate to non-residential use shall also not exceed 750 square feet of net floor area or twenty-five percent (25%) of the sum of the net floor area of both the finished primary commercial, industrial or institutional unit and the finished dwelling unit subordinate to non-residential use whichever is larger, however no dwelling unit subordinate to non-residential use shall exceed 1,200 square feet of net floor area.
5. A dwelling unit subordinate to non-residential use does not require a separate minimum lot size (Article 5, Table 2).
6. Only one dwelling unit subordinate to non-residential use per lot is allowed.
7. A dwelling unit subordinate to non-residential use is not permitted on a lot containing any other dwelling unit.
8. A dwelling unit subordinate to non-residential use shall not be considered an expansion of a preexisting nonconforming use.
9. In granting a conditional use permit the Board must determine that:
   a. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts.
   b. The proposed location is of adequate size.
   c. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.
   d. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.
   e. The proposal does not create excessive demand for municipal services and facilities.
   f. The proposal does not create hazards to the health, safety or general welfare of the public.
10. The Planning Board shall have the responsibility for making the final decision as to the necessity of site plan review for the addition of a dwelling unit subordinate to non-residential use. Such determination shall be made in accordance with the guidelines enumerated in Section 1.E of the Site Plan Review Regulations.
11. Any application filed under this section (e.g., building permit, conditional use permit, site plan review) shall include the following:
    a. Scaled plot plan showing location of existing structure
    b. Detailed floor plan

c. Parking layout and yard area
d. Sketch any proposed expansion or change to the structure showing overall dimensions
e. Square footage of construction or alteration
f. Location and number of exits
g. Any additional information deemed necessary by the reviewing authority to adequately describe the proposed work

12. Subordinate dwelling units shall not be conveyed as a condominium unit separate from the principal unit.
13. The dwelling unit subordinate to non-residential use shall be located within a primary commercial, industrial or institutional building and is not permitted in detached or accessory structures. The dwelling unit subordinate to non-residential use must be attached to the primary commercial, industrial or institutional building by means of a common wall, floor or ceiling between conditioned spaces or a conditioned space. For the purposes of this section, conditioned space is space within a building that is provided with heating and or cooling equipment and/or systems capable or maintaining through design heat of 68°F during the heating season and 80°F during the cooling season, or has a fixed opening directly adjacent to a conditioned area. An interior door shall be provided between the primary commercial, industrial or institutional building and the dwelling unit subordinate to non-residential use.
14. A dwelling unit subordinate to non-residential use shall include no more than two (2) bedrooms.
15. A dwelling unit subordinate to non-residential use may be created either through the internal conversion of an existing primary commercial, industrial or institutional building or through the creation of a new primary commercial, industrial or institutional building/subordinate dwelling unit structure.
16. The construction and occupancy of dwelling unit subordinate to non-residential use shall not be detrimental to the neighborhood in which the lot is located by virtue of overcrowding or traffic congestion.
17. Means of egress for both the commercial, industrial or institutional use and the dwelling unit subordinate to non-residential use shall meet all applicable codes.
18. A building permit is required prior to creation/construction of the dwelling unit subordinate to non-residential use and a Certificate of Occupancy is required prior to occupancy of the unit.
19. Sufficient off-street parking shall be provided to accommodate all regular inhabitants of the dwelling unit subordinate to non-residential use, and at least one off-street parking space shall be provided for use exclusively associated with the dwelling unit subordinate to non-residential use. Parking spaces required pursuant to this section shall not impede traffic, road maintenance or future road improvements.
20. All applications under this section shall demonstrate compliance with NH DES Wastewater Rules for sewage disposal and adequate provision for water, waste and drainage generated by the future occupancy of a dwelling unit subordinate to non-residential use.
21. No exterior changes shall be made which do not conform to the character of the neighborhood.

H. CAMPGROUNDS

The purpose of this Ordinance is to govern and control the orderly growth and development

of all campgrounds, including RV Resort Campgrounds, to maximize compatibility with surrounding land uses, avoid health and safety hazards, protect environmental and aesthetic resources, minimize demands on public services and protect the rural qualities of the community.

In addition to the standards found in the Site Plan and Subdivision Regulations, the following minimum standards shall apply to all new campgrounds and RV Resort campgrounds and to expansions to existing campgrounds and RV Resort campgrounds. In the instance of a conflict between these and other Regulations or Ordinances, the more stringent shall apply.

1. Definitions:

Campground - A parcel of land with one or more specific sites, with or without water, electricity or sewerage hookups, that has provisions for the pitching of tents or parking of recreational vehicles or travel trailers for use as sleeping quarters on a temporary basis. All recreational vehicles and travel trailers shall remain registered and roadworthy. In campgrounds, sites shall not be occupied by the same person or persons for more than 3 consecutive weeks. Campgrounds shall comply with all applicable local and State standards. No structures with the exception of RVs in excess of 320 sf are permitted on individual campsites. Pavement and concrete parking and campsite pads are not considered structures.

Campgrounds- RV Resort (RV Resort) - A parcel of land with one or more specific sites, with water, electricity and sewerage hookups, that has provisions for the pitching of tents or parking of recreational vehicles or travel trailers for use as sleeping quarters on a temporary basis. All recreational vehicles and travel trailers shall remain registered, inspected and roadworthy. In order to accommodate access to the Lakes Region's four recreational seasons, RV resort sites are not limited by the number of consecutive weeks that they may be occupied. However, all occupancy must be on a temporary basis as defined below. RV Resorts shall comply with all applicable local and State standards. RV Resorts may also include segregated sites that may be constructed and operated meeting the campground standards.

Campsite – A plot of ground within a campground or RV resort intended for the accommodation of a recreational vehicle, tent, or other individual camping unit on a temporary basis.

Dimensional Requirements – except as regulated herein and in the Site Plan Review and Subdivision Regulations shall meet the requirements of Article 5, Table 2 of the Belmont Zoning Ordinance.

2. Recreational Vehicle (RV) - Any of the following vehicles:

a. Motorhome or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
b. Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
c. Recreational trailer, which is a vehicular, portable structure built on a single

chassis, 400 square feet or less when measured at the largest exterior horizontal projections, calculated by taking the measurements of the exterior of the recreational trailer including all siding, corner trim, molding, storage space and area enclosed by windows but not the roof overhang. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping, travel or seasonal use.

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

3. Service Buildings - A subordinate structure determined by the Planning Board to be commonly associated with, incidental to, and on the same lot as the campground. Service buildings are intended for the use of residents of the campground and are not intended for public use. Uses may include Toilet, Shower, Bathroom, Office, Medical, Recreation, Storage, Equipment, Workshop, Camp store, Waterfront/Pool Bath house. Service buildings are considered structures and must comply with all applicable Codes and Ordinances. For the purpose of internal setbacks Service Buildings shall be considered unrelated structures on the same lot and shall also meet a minimum 15' setback to internal roads.

4. Temporary Basis – means occupancy only for transient recreational purposes, not occupancy to create a domicile or place of abode within the meaning of RSA 21:6 and :6-a for the purpose of establishing residency.

5. <u>Recreational Vehicle Uses:</u>

a. Recreational vehicles may not be used in conjunction with a commercial or industrial use. When erected on campsites, recreational vehicles in excess of 320 square feet in size shall comply with the manufactured housing setbacks required in the Manufactured Housing section of the Zoning Ordinance.

b. Property owners may house one unit on their property as accessory to an existing primary residential use providing the intent is to store the unit or to use the unit for temporary recreational use of the property owner or non-paying guest. **Such use shall not exceed 45 days during any twelve-month period unless the unit is attached to NH State approved on-site water and septic or sewer facilities. If so attached, use of the unit shall not exceed six months during any twelve-month period.** The allowed single unit shall not be considered a structure for Zoning and Planning purposes and shall not be used as a primary residence.

c. Property owners may place one unit on their vacant lot for temporary recreational use by themselves or members of their immediate family for no more than 30 days during any twelve-month period. Such units shall remain registered, shall not be attached to any structure or the ground, and shall have and use a manufacturer-installed self-contained wastewater system. Further, if the unit is attached to NH State approved on-site water and septic or sewer facilities, the unit may remain on site for up to six months during any twelve-month period. Units placed on lots not having an existing primary residential use are subject to the 320 square foot clause above.

6. Residential Use:

One permanent single-family dwelling is allowed as part of a campground. Occupancy is limited to the resident caretaker and his or her immediate family. No other domicile, residential use or year-round occupancy may occur.

I. CEMETERIES, PRIVATE BURIAL GROUNDS, BURIALS ON PRIVATE PROPERTY

Cemeteries and private burial grounds shall not be laid out within 100 feet of any dwelling house, schoolhouse or school lot, store or other place of business without the consent of the owner of the same, nor within 50 feet of a known source of water or the right of way of any Class V municipal or state highway.

Existing cemeteries and private burial grounds which are not in compliance with the above set-back requirements may be enlarged, provided that no portion of the enlargement is located any closer to the above-listed buildings, water sources or highways than the existing cemetery, and provided further that no such enlargement shall be located within 50 feet of any Class V municipal or state highway.

Cemeteries and private burial grounds are subject to Site Plan Review by the Planning Board.

Interments on private property not in an established burial ground shall not occur within 100 feet of any dwelling house, schoolhouse or school lot, store or other place of business without the consent of the owner of the same, nor within 50 feet of a known source of water or the right-of-way of any Class V municipal or state highway. Prior to interment, the location of the burial site shall be reported in writing to the Town of Belmont Cemetery Trustees and Land Use Office and shall also be recorded in the deed to the property upon transfer of the property to another person.

No new construction, excavation, or building shall be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established burial ground or cemetery, whether or not such burial site or burial ground was properly recorded in the deed to the property, except when such construction, excavation, or building is necessary for the construction of an essential service, as approved by the governing body of a municipality in concurrence with the cemetery trustees, or in the case of a state highway, by the commissioner of the department of transportation in concurrence with the cemetery trustees.

ARTICLE 9. PERSONAL WIRELESS SERVICES

A. PURPOSE AND GOALS

This article establishes general standards for the siting, construction and development of personal wireless services facilities (PWSF) through the enhancement and fulfillment of the following specific purpose and goals which are in addition to those stated in Article I of this ordinance:

1. Further the goals, objectives and recommendations of the Belmont Master Plan, and preserve the authority of the Town of Belmont to regulate land uses including PWSF;
2. Provide reasonable opportunities for the siting of PWSF;
3. Reduce adverse impacts such facilities may create, including, but not limited to impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;
4. Require cooperation and co-location to the highest extent possible between competitors where practical and consistent with the goals of this Ordinance in order to reduce the cumulative negative impacts upon the Town of Belmont;
5. Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;
6. Provide constant maintenance and safety inspections for all facilities;
7. Provide for the removal of abandoned or discontinued facilities that are no longer inspected for safety concerns and Code compliance. Provide a mechanism for the Town of Belmont to remove such facilities to protect the public from imminent harm and danger;
8. Provide for the removal or upgrade of facilities that are technologically outdated.

B. APPLICABILITY

This Article applies to all construction and expansion of PWSF, except as provided below.

1. The following are exempt from the provisions of this Article:
   a. Emergency PWSF. Temporary PWSF for emergency communications by public officials.
   b. Amateur (ham) radio services. Amateur (ham) radio services licensed by the Federal Communications Commission (see RSA 674:16).
   c. Parabolic (dish) antenna. Parabolic antenna that is accessory to a residential use of property.
   d. Maintenance, repair or reconstruction. Maintenance and repair of a PWSF and related equipment, provided that there is no change in the height or any other dimension of the facility.

2. Essential Services & Public Utilities. PWSF shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for PWSF is a use of land, and is addressed by this

Article.

3. PWSF shall be considered either a principal or a secondary non-residential use. Such facilities shall not be deemed an accessory use. A different use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

C. SITING STANDARDS

1. Location of facilities and use-generally. Applicants seeking approval for PWSF shall comply with the following general criteria:
   a. If feasible, PWSF shall be located in or on existing structures, including but not limited to buildings, water towers, existing PWSF, utility poles and towers and related facilities, provided that such installation preserves the character and integrity of those structures. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. Licensed carriers shall share PWSF and sites where feasible and appropriate, thereby reducing the number of stand-alone PWSF within the Town of Belmont. All applications for Special Exception shall demonstrate a good faith effort to co-locate with other carriers. If an applicant does intend to co-locate or to permit co-location, the applicant shall provide drawings and studies to both the Planning Board and Zoning Board of Adjustment which show the ultimate appearance and extent of operation. If the Zoning Board of Adjustment approves co-location for a PWSF, the decision shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the decision shall not require further approval from the Zoning Board of Adjustment. However, the addition of any facilities not specified in the Special Exception approval shall require a new approval.
   b. If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence can consist of:
      (1) Substantial Evidence that no existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
      (2) Substantial Evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why.
      (3) Substantial Evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
      (4) Substantial Evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
      (5) Substantial Evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
      (6) Substantial Evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable.

      The applicant proposing to build a new tower, shall submit an

agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other PWS providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the Town of Belmont, and grounds for a denial.

2. Historic buildings. Any PWSF located on or within an historic structure shall not alter the character defining features, distinctive construction methods, or original materials of the building.
3. Sensitive natural resources. Specific natural resource characteristics as maybe present throughout the Town of Belmont that are fundamentally incompatible with new tower construction: (a) slopes of 25% or greater, (2) wetlands, (3) deer wintering habitat areas as inventoried by the NH Department of Fish and Game, (4) threatened, rare or endangered flora as determined by the NH Natural Heritage Inventory. PWSF shall be located and designed so as to avoid or mitigate impacts to the above-referenced natural resources.

D. DIMENSIONAL REQUIREMENTS

1. Classification of facilities. For purposes of distinguishing between different PWSF, the following classification shall apply:
   - Class 1. Antenna location or co-location on an existing structure; including but not limited to a church steeple, building roof or water tower.
   - Class 2. Antenna location or co-location on an existing tower.
   - Class 3. New tower construction or tower expansion - applicable to tower facilities used primarily for purposes of establishing or improving a capacity service facility, a residential service facility or as an alternative coverage facility.
   - Class 4. New tower construction or tower expansion - applicable to tower facilities used primarily for purposes of establishing a coverage service facility.
2. Height. The requirements set forth in this section shall apply only to PWSF and shall preempt all other height limitations required by the Town of Belmont Zoning Ordinance.
   a. Class 1 Facilities: An antenna may be located or co-located on an existing structure (such as a building, church or water tower) which shall not project more than 10' above the height of the building or structure.
   b. Class 2 Facilities: Antenna may be located or co-located on an existing tower which does not increase the height of the tower nor violate the terms or conditions of any previous local approval.
   c. Class 3 Facilities: The maximum tower height shall be 100 feet above ground level. Actual, permissible tower heights shall be determined on a case-by-case basis by the Zoning Board of Adjustment pursuant to the Special Exception review process.
   d. Class 4 Facilities: The maximum tower height shall be 180 feet above ground level. Actual, permissible tower heights shall be determined on a case-by-case basis by the Zoning Board of Adjustment pursuant to the

Special Exception review process.

Phased Vertical Expansion. An applicant may request and/or the Zoning Board of Adjustment may require, that towers be engineered so as to be capable of vertical expansion in phases. The general purpose of such a request or requirement shall be to provide a tower/antenna height that is initially proportionate to the tree line at the time of construction, while providing an option for future vertical expansion in a manner that is incrementally consistent with the vertical growth of the surrounding vegetation. All subsequent phases of vertical tower expansion shall be subject to the Special Exception application review process. The review of such a subsequent application shall be limited in scope to the proposed vertical expansion as it relates to the terms and provisions of this Ordinance.

3. Setbacks. All PWSF and their equipment shelters shall comply with the building setback provisions of the underlying zoning district in which the facility is located.

In addition, the following setbacks shall be observed:

a. In order to ensure public safety, the minimum distance from the base of any tower to any property line, road, dwelling, business, institution or public recreational area shall be equal to two-thirds of the height of the tower. This setback shall be known as the fall zone.
b. In the event that an existing structure is proposed as a mount for a PWSF, a fall zone shall not be required.
c. In reviewing an application for Special Exception, the Zoning Board may reduce the required fall zone and/or setback distance of the zoning district up to 50% of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Zoning Board of Adjustment shall consider both the visual and safety aspects of the proposed use.
d. Tower Separation. No tower facility (Class 3 or Class 4) shall be located within two thousand feet (2000 ft.) of another tower facility (Class 3 or Class 4). Distance separating two facilities shall be measured as a straight, horizontal line between two points.

E. PERFORMANCE STANDARDS

All PWSF shall be subject to the provisions of this Ordinance and the standards contained within and as applied under the Site Plan Review Regulations and other applicable ordinances and regulations.

1. Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the

controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna, as abandoned, at the owner's expense through the execution of the posted security.

2. Building Codes and other safety considerations. To ensure the structural integrity of towers and antennas, the owner of the facility shall ensure that it is constructed, attached and maintained in compliance with standards contained in the local building code applicable to non-residential structures and facilities. Prior to the issuance of a Certificate of Use and Occupancy, the applicant shall submit to the Code Enforcement Officer written certification that any antenna installation or tower construction meets or exceeds the applicable codes.
3. The installation and/or construction of all PWSF subject to this Ordinance shall require a building permit and a Certificate of Use and Occupancy. No PWSF shall operate prior to the issuance of a Certificate of Use and Occupancy.

F. SPECIAL EXCEPTION REVIEW PROCEDURES

1. Application Requirements. Applications for Special Exception shall include, at a minimum, the following additional information:
    a. Written evidence that the proposed use/facility will comply with the FCC regulations regarding radio frequency exposure.
    b. Written evidence that the proposed use/facility will meet the requirements of the National Environmental Policy Act.
    c. Copies of any Environmental Assessment or Environmental Impact Statement produced in accordance with FCC or NEPA requirements.
    d. An inventory of existing towers that are within the jurisdiction of the Town and those within two miles of the Town borders, including specific information about the location, height, design as well as economic and technical feasibility for co-location. Written evidence shall be presented that no existing structure can accommodate the applicant's proposed antenna in a manner that will achieve the required technical result.
    e. Engineering information detailing the proposed size and coverage range together with the technical reasons for the facility design.
    f. A description of the tree cover on the subject property and adjacent properties by dominant species and average tree canopy height, as measured by or available from a verifiable source.
    g. Representations, dimensioned to scale, of the proposed tower, antennas, equipment shelters including elevation drawings of all structures and the vegetative buffer.
    h. A visual impact assessment including before-condition photographs and after-condition photographic simulations of the proposed facility showing what can be seen from any public viewpoint.

2. Criteria for Special Exception. It shall be the burden of the applicant to provide sufficient evidence to persuade the Zoning Board of Adjustment that all applicable criteria of this ordinance have been met and that the proposal does not represent unreasonable adverse impacts. An applicant's failure to satisfy the burden of proof shall result in the denial of an application. Additional factors considered in granting decisions:

a. Height of proposed tower or other structure.
b. Proximity of tower to residential development or zones.
c. Nature of uses on adjacent and nearby properties.
d. Surrounding topography.
e. Surrounding tree coverage and foliage.
f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
g. Proposed ingress and egress to the site.
h. Availability of suitable existing towers and other structures as discussed in this ordinance.
i. Visual impacts on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
j. Availability of alternative tower structures and alternative siting locations.

3. Outside Technical Review. The Zoning Board of Adjustment may retain a technical expert in the field of radio frequency engineering to review and verify technical claims made by the applicant including but not limited to the co-location findings, alternative locations and innovative design opportunities. The cost of such technical review shall be borne by the applicant.
4. Conditions. In approving an application for Special Exception, the Zoning Board of Adjustment may impose such conditions as it deems appropriate to substantially secure the objectives, standards or requirements of this ordinance.
5. Site Plan Review by the Belmont Planning Board is required for any proposal which includes the construction of a new tower or the construction or expansion of an equipment shelter.
6. Joint meetings and public hearings between the Planning Board and Zoning Board of Adjustment may be held in accordance with the provisions of RSA 676:2.

G. BONDING, SECURITY AND INSURANCE

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board, under Site Plan review, shall set the form and amount of security that represents the estimated cost for removal and disposal of abandoned towers in the event the tower is abandoned and the tower owner is incapable or unwilling to remove the tower. All security shall be maintained for the life of the tower. The Town as an administrative matter may periodically require the amount of the security to be adjusted to cover the then current cost of removal and disposal. Proof of adequate insurance coverage for accident or damage shall be provided for all tower facilities prior to the issuance of a Building Permit. Said proof shall be submitted to the Town on an annual basis thereafter and be placed on file for public inspection with the Land Use office. Failure to maintain adequate security for removal of an abandoned tower and/or adequate insurance coverage shall invalidate the Certificate of Use and Occupancy.

H. ABANDONMENT

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall

be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof of current, satisfactory inspection by a qualified person to conduct such inspection. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such determination. A declaration of abandonment shall only be issued following a public hearing with notice to abutters and the last known owner/operator of the tower. If the abandoned tower is not removed within ninety (90) days, the Town shall have all necessary authority to execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

I. DEFINITIONS

1. Antenna - Means the equipment from which wireless radio signals are sent and received by a PWSF.
2. Average tree canopy height – means the average height found by inventorying the height above ground level of all trees over 20 feet in height within a 300 foot radius.
3. Carrier – a person that provides personal wireless services.
4. Co-location – the use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
5. Designated Historic Buildings and other Resources - historic resources listed in the National Register of Historic Places or determined to be eligible for listing on the National Register, individually or as a district.
6. Equipment Shelter - an enclosed structure, cabinet, shed vault, or box ~~at or~~ near the base of the mount within which are housed equipment for PWSFs, such as batteries and electrical equipment.
7. FAA - an acronym that shall mean the Federal Aviation Administration.
8. FCC - an acronym that shall mean the Federal Communications Commission.
9. Fall Zone - the area on the ground within a prescribed radius from the base of a facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.
10. Height –Means the height above ground level from the natural grade of a site to the highest point of a structure.
11. Mount - the structure or surface upon which antennas are mounted and include roof mounted, side mounted, ground mounted and structure mounted types.
12. Planning Board - the Town of Belmont Planning Board.
13. Personal Wireless Service Facility or PWSF or facility – any PWSF as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(ii), including facilities used or to be used by a licensed provider of personal wireless services.
14. Personal Wireless Services means any wireless telecommunications services, and commercial mobile services including cellular telephone services, personal communications services, and mobile and radio paging services as defined in the federal Telecommunications Act of 1996, 47 U.S.C. section 332(c)(7)(C)(i).
15. Preexisting towers and antennas - any tower or antenna lawfully constructed or permitted prior to the adoption of this ordinance. Shall also mean any tower or antenna lawfully constructed in accordance with this ordinance.

16. Tower - any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like.
17. Unreasonable Adverse Impact - the proposed facility would produce an end result which is excessively out of character with the designated resources effected.

ARTICLE 10. IMPACT FEES

A. DECLARATION OF PURPOSE AND INTENT

The purpose of this Article is to authorize the planning board, as a condition of subdivision or site plan approval, to require a developer to pay reasonable fees and exactions for off-site improvements occasioned by the proposed development, as authorized by the New Hampshire Supreme Court in cases such as *Land-Vest Properties, Inc. v. Town of Plainfield*, 117 N.H. 817 (1977) and *N.E. Brickmaster, Inc. v. Town of Salem*, 133 N.H. 655 (1990). In addition, this Article is intended to comply with the Court's ruling in *Simonsen v. Town of Derry*, No. 98-153 (November 15, 2000) that such fees and exactions cannot lawfully be imposed in the absence of an impact fee ordinance enacted pursuant to RSA 674:21, V.

B. AUTHORITY OF PLANNING BOARD

The planning board may, as a condition of approval of any subdivision or site plan application, require an applicant to pay an impact fee representing the applicant's fair share of off-site improvements to existing or future public facilities affected or required by the proposed development. Nothing in this section shall be construed to:

(a) limit the existing authority of the planning board to disapprove proposed development which is scattered or premature;
(b) limit the existing authority of the planning board to disapprove proposed development which would require an excessive expenditure of public funds;
(c) limit the existing authority of the planning board to disapprove proposed development which would otherwise violate any applicable ordinance or regulation;
(d) limit the existing authority of the planning board to require off-site work to be performed by an applicant in lieu of paying an impact fee;
(e) limit the existing authority of the planning board to impose other types of conditions of approval; or
(f) affect or alter in any way fees governed by any other statute, ordinance or regulation.

C. AMOUNT OF IMPACT FEE

The amount of any impact fee shall be calculated by the planning board to be a proportional share of the costs of municipal capital improvements reasonably related to the capital needs created by the proposed development, and to the benefits accruing to the development from the capital improvements financed by the fee. Upgrading of existing facilities and infrastructures, the need for which is not created by new development, shall not be paid for by impact fees.

D. ACCOUNTING

Pursuant to RSA 673:16, II and RSA 674:21, V(c), impact fees shall be held in a separate, nonlapsing account, shall not be commingled with other town funds, and shall be used solely for the capital improvements for which they were collected, or to recoup the cost of capital improvements made in anticipation of the needs which the fees were collected to meet. Such fees shall be paid out only upon order of the planning board or its designated agent.

E. ASSESSMENT AND PAYMENT

Impact fees imposed under this Article shall be assessed prior to, or as a condition for, final subdivision or site plan approval, and shall be paid prior to the issuance of any building permit, or at such other time as may be specified by the planning board. In the interim

between assessment and payment, the planning board may require a developer to provide a bond, letter of credit or other suitable security to guarantee the future payment of assessed impact fees.

F. REFUND

Any portion of an impact fee which has not be expended or legally bound to be expended for the purpose for which it was collected shall be refunded with accrued interest, if any:

(a) when the subdivision or site plan approval expires under the rules of the planning board, or under the terms of a decision of the planning board, where such approval has not become vested under RSA 674:39 and no extension of approval has been granted by the planning board;
(b) when the approval is revoked under RSA 674:4-a;
(c) when the approval is reversed by a final, unappealable judgment of a court of competent jurisdiction; or
(d) six years after the impact fee is paid, or six years after the date any extension of approval is granted by the planning board, whichever occurs last.

G. APPEALS

Pursuant to RSA 674:21, V(f) and RSA 676:5, III the assessment of any impact fee under the authority delegated to the planning board by this Article cannot be appealed to the Belmont Zoning Board of Adjustment, but may be appealed only to the superior court as provided by RSA 677:15. Notwithstanding Article 11, the Belmont Zoning Board of Adjustment shall not have the authority to hear appeals of, or grant a variance from, the assessment of any impact fee.

ARTICLE 11. NONCONFORMING USES/STRUCTURES

A. Any lawful use of land or of a building or part thereof at the time of the adoption of this Ordinance may be continued, although such use does not conform to the provisions of this Ordinance, provided, however, that:

1. A nonconforming use shall not be changed to another nonconforming use except by variance.

2. A nonconforming use may be expanded or enlarged only by special exception.

3. a. A nonconforming structure may be expanded or enlarged only by special exception. However, if a variance is required, a Special Exception is not also required.

b. If the expansion or enlargement increases the nonconformity with the setback and/or height requirements of this Ordinance, a special exception shall not be granted unless the Board of Adjustment also grants a Variance.

c. Creating useable floor space in a nonconforming structure within the setback with no increase in the footprint is considered an expansion and requires a special exception. As an example, constructing a second floor on an existing one-story building. Making a change that does not create useable floor space is not considered an expansion. As examples, roofing or enclosing an existing open deck; replacing a flat roof with a pitched roof (if no useable floor space is created).

d. Increasing the width or length, increasing the footprint, of a nonconforming structure in the setback, where the addition will not be further into that setback than the existing building, is considered an expansion and shall be allowed by special exception, without requiring a variance. However, the total square footage of useable space of all the expansions to a nonconforming structure allowed under this section, shall not exceed 40% of that of the original structure.

e. An addition to a nonconforming structure, where the addition itself is not in violation of the dimensional requirements of this Ordinance, is not considered an expansion.

f. Nonconforming structures which have more than 75% of the original structure voluntarily removed, for renovation or other purposes, shall be considered to have been removed entirely and shall be subject to the applicable terms of this Ordinance for replacement.

4. A nonconforming structure or use which has been abandoned for more than two years may not be reactivated.

B. 1. Nonconforming buildings destroyed by fire or other natural disaster may be repaired

or replaced within 3 years of its destruction if the degree of nonconformity is not altered. A nonconforming building not repaired or replaced within 3 years of its destruction shall be required to comply with this Ordinance when repaired or replaced.

2. Nonconforming structures otherwise removed may also be replaced if the nonconformity is not moved, altered or increased, except as allowed in section 11.A.3.d. above. Such replacement will be allowed within 2 years of the start of the removal. If more than 2 years elapse, replacement shall be required to comply with this Ordinance.

C. A preexisting nonconforming lot which does not meet current Zoning requirements as to minimum required lot size and/or frontage, may be used for building purposes only if septic requirements are complied with, applicable setbacks can be met, and the lot has a minimum of 20' of frontage as defined by this Ordinance.

ARTICLE 12. ADMINISTRATION, ENFORCEMENT AND PENALTY

A. It shall be the duty of the Board of Selectmen to administer and to enforce the provisions of this Ordinance.

B. Upon any well-founded information that this Ordinance is being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of same by seeking an injunction in the Superior Court, or by any other logical and appropriate action.

C. Any person, firm, corporation or other entity who violates any provision of this Ordinance shall be subject to the civil penalty provided under NH RSA 676:17 as the same may be amended from time to time.

ARTICLE 13. BOARD OF ADJUSTMENT

A. MEMBERSHIP

Under the provisions of RSA 669:17 members of the Zoning Board of Adjustment shall be elected by ballot at the annual town elections.

In accordance with RSA 673:3 and RSA 673:5, the Zoning Board of Adjustment shall consist of five members who shall serve three-year terms.

The terms of appointed Members serving as of the adoption of this amendment shall not be affected by this amendment. However, when the term of each member expires, each new member shall be elected at the next regular town election.

In accordance with RSA 673:6, the Zoning Board of Adjustment shall also include five appointed alternate members who shall serve three-year terms.

The terms of alternate members serving as of the adoption of this amendment shall not be affected by this amendment. However, when the term of each alternate member expires, each new alternate member shall be appointed by the Zoning Board of Adjustment.

Vacancies for alternate and full members which occur other than at the expiration of a term or prior to the first annual town election held after the adoption of this amendment shall be filled by the members of the Zoning Board of Adjustment.

B. NOTIFICATION OF OTHER TOWN BOARDS

The Board of Adjustment shall:

1. Inform the Selectmen before taking action on cases which might presently involve a violation of existing Town Ordinances;
2. Notify the Planning Board of applications for Special Exceptions and Variances at least one week prior to the consideration of such applications, in order to permit review by the Planning Board.

C. SPECIAL EXCEPTIONS

The Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, grant permits for uses permitted as special exceptions as set forth in this Ordinance. Before reaching a decision under this Article, three members of the Board shall have reviewed the subject area. Said viewing shall be noted in their records. The Board, in acting on the application for a special exception must find that all the following conditions are met:

1. The proposal is specifically authorized as a special exception by the ordinance.
2. The proposal satisfies applicable Special Exception criteria set forth in Ordinance Article 13.F.
3. The proposal is not incompatible to other uses in the area through the creation of

noise, fumes, dust, odor, lighting, smoke or other impacts.

4. The proposed location is of adequate size.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street.
7. The proposal does not create excessive demand for municipal services and facilities.
8. The proposal does not create hazards to the health, safety or general welfare of the public.

Action by the Board: In acting on such exceptions, the Board shall take into account the general purpose and intent of this Ordinance to preserve community values and may impose conditions and safeguards in addition to those specified in this Ordinance if the occurrence of certain characteristics of the use of site warrant such.

9. Plans for the proposed development of a site for special exception shall be submitted with an application for permit, and such plans shall show the location of all buildings, parking area, traffic access and circulation drives, open spaces, landscaping, lighting and other pertinent information that may be necessary to determine that the proposed use meets the requirements and spirit and intent of this Ordinance. Said plans shall be transmitted by the Board of Adjustment to the Planning Board for review.
10. A special exception shall expire if such use is not substantially acted upon within, or ceases for more than, two (2) years. For a use not substantially acted upon within two (2) years, a one-time, one-year extension may be granted upon application to the Zoning Board of Adjustment for good cause shown. Application for extension must be filed with the Land Use Office not later than thirty (30) days prior to the expiration of the original approval.
11. The location and size of the use, the nature and intensity of the operation involved, the size of the site in relation to the proposed use and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the District and the location, nature and height of buildings, wall, and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. In this regard, the Board may impose the following safeguards in addition to the applicable requirements of this Ordinance including but not limited to the following:

    a. Front, side or rear setbacks greater than the minimum requirements of this Ordinance.
    b. Screening of parking areas or other parts of the premises from adjoining premises or from the street by walls, fences, planting or other devices.
    c. Limitations of size, number of occupants, method or time of operation or extent of facilities.
    d. Regulation of number, design and location of drives or other traffic features.
    e. Off-street parking or loading spaces beyond the minimum requirements of this Ordinance.

12. Operations shall not create more noise, fumes, odor, or vibration or other nuisance, than what would be created by any permitted uses in the district.

D. VARIANCES

The Board of Adjustment may grant a variance from the requirements of this Ordinance only where the Board finds that all five of the following conditions are met:

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

2. The spirit of the ordinance is observed;
3. Substantial justice is done;
4. The values of surrounding properties are not diminished; and
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

A variance shall expire if such use is not substantially acted upon within, or ceases for more than, two (2) years. For a use not substantially acted upon within two (2) years, a one-time, one-year extension may be granted upon application to the Zoning Board of Adjustment for good cause shown. Application for extension must be filed with the Land Use Office not later than thirty (30) days prior to the expiration of the original approval.

E. 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, in the manner prescribed by RSA 676:5-7, as amended, within the time limit set by the Board of Adjustment according to said statute. The cost of advertising and costs of mailing and the notices of a hearing shall be paid by the person making the appeal prior to the hearing.

F. ADDITIONAL SPECIAL EXCEPTION CRITERIA

In addition to the Special Exception criteria outlined in Article 13.C. of this Ordinance, the Board of Adjustment, in acting on an application for a Special Exception as noted below must find that the following conditions are also met.

1. Treated Soils

    a. If the material is not capped in a method approved by the Planning Board it shall be vegetated.
        1. A complete agronomic soils test shall be submitted.
        2. Only soils with a minimum of 20% fines, also classified as sandy loam, loam or silt loam, shall be used within the top six inches of the placement.
        3. Seeding shall be completed no later than 30 days after material is initially deposited on the site.
        4. The seeding project shall be in compliance with the recommendation

of the USDA, NRCS based on specific soil and site characteristics.

5. Areas required to be vegetated shall receive on-going maintenance to assure that the required vegetation occurs and is maintained.
6. Bonding to secure vegetation, in an amount approved by the Planning Board shall be required and shall be held for two growing seasons after required vegetation has been achieved.

b. If the material is to be capped, the material, depth, and method of that cap shall be as determined by the Planning Board under a Site Plan or Subdivision approval.

c. Material shall not be placed until all protective controls are in place. These include, but are not limited to surface water and dust control devices.

d. Material may not be placed or used:
   1. in residential applications;
   2. in playground applications;
   3. within the 100-year flood plain;
   4. on or in lands used for the production of crops for direct human consumption;
   5. within a recharge area of any sole source drinking water supply;
   6. within 100 feet of any surface water;
   7. within 25 feet of a wetland.

e. Pre and post soils and/or water testing may be required.

f. Independent review of the proposal, at the cost of the applicant, may be required.

G. EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENT

Application to the Board of Adjustment, in accordance with RSA 674:33-a, may be made when a lot or other division of land, or structure thereupon, is discovered to be in violation of a physical layout or dimensional requirement imposed by a zoning ordinance enacted pursuant to RSA 674:16.

ARTICLE 14. RELATIONSHIP TO EXISTING ORDINANCES

A. Nothing contained in this Ordinance shall be construed as repealing or modifying any other ordinance or regulation of Belmont, except as may be specifically repealed or modified by this Ordinance, but shall be in addition thereto. Nor shall anything in this Ordinance be constructed as repealing or modifying any private restrictions placed upon property by covenant, deed, or other private agreement, or any restrictive covenants running with the land to which the Town is a party, but shall be in addition thereto.

B. Whenever the provisions of this Ordinance differ from those prescribed by any statutes, other ordinance or other regulation or restriction, that provision which imposed greater restriction or the higher standard shall apply.

ARTICLE 15. DEFINITIONS

In this Ordinance, the following terms have the following meanings:

Accessory Building or Use - A subordinate building or use commonly associated with, incidental to, and on the same lot or site occupied by the primary building or use.

Agricultural Animals - The grazing, care, or keeping of personal or commercial agricultural animals including, by example, livestock, poultry, dairy & beef cattle, deer, bison, sheep, swine, horses, ponies, mules, goats, llamas; as well as animals traditionally raised for fur.

Aircraft Landing Area - Area used for landing and/or takeoff of motorized and/or non-motorized aircraft.

Agriculture and Forest Management - Land used for agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, silviculture and animal and poultry husbandry, which includes processing of agricultural products and marketing of agricultural products as defined in RSA 21:34-a, as amended.

Pasturage - Raising of grass.
Apiculture - Raising of bees.
Horticulture - Cultivating of fruit, vegetables.
Floriculture - Cultivating of flowering plants.
Silviculture - Care and cultivation of trees, forestry.
Enology & Viticulture - Growing of grapes and making wine.

Agritourism- Attracting visitors to a farm to attend events or activities that are accessory uses to the primary farm operation, including, but not limited to, being provided a meal, making overnight stays, enjoyment of the farm environment, education which shall be instruction or learning about the farm's operations, or active involvement in the activities of the farm.

Alternative Treatment Center - a not-for-profit entity registered under RSA 126-X:7 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, and dispenses cannabis, and related supplies and educational materials, to qualifying patients, designated caregivers, other alternative treatment centers, and visiting qualifying patients.

Assisted Living Facility - Residential facility providing rooms, usually occupied by frail elderly, and supervision of self-administered medications, meals, health monitoring under the supervision of a professional nurse, and transportation. May also provide services such as communal dining, social and recreational services, housekeeping, and other support services appropriate for the residents.

Bed and Breakfast Establishment - overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation.

Biosolids – means "biosolids" as defined by RSA 485-A:2,XXII, as amended.

Boat Sales and Service - A commercial enterprise selling and servicing boats to include fuel and marine supply sales.

Boat Storage Facilities-Exterior - The storage and safekeeping of boats outdoors or in other than a fully enclosed structure.

Boat Storage Facilities-Interior – A fully enclosed structure that provides for the storage and safekeeping of boats.

Buffer – Area designed to separate uses and protect significant features. May contain screening, native vegetation, open space or other methods to enhance separation value.

Building - A structure capable of being occupied for residential, commercial, industrial, agricultural, or other uses.

Business and Professional Offices - A place in which business is transacted: accounting, architecture, legal practice or other similar uses.

Campground - A parcel of land with one or more specific sites, with or without water, electricity or sewerage hookups, that has provisions for the pitching of tents or parking of recreational vehicles or travel trailers for use as sleeping quarters on a temporary basis. Campgrounds shall comply with the standards required under the Belmont Subdivision Regulations. No structures shall be erected on camp sites with the exception of open decks or screened enclosures not exceeding 144 square feet per site, and storage buildings not exceeding 64 square feet per site.

Cemeteries - Place for burying the dead.

Change of Occupancy Permit - A permit issued by the Building Official for any change in tenants of a nonresidential structure.

Churches - Place of worship either indoors or outdoors including a rectory and maintained by a religious group.

Clinic - An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

Commercial - A use primarily concerned with the making of profit from the sale of goods or services.

Commercial Greenhouse/Gardening Center - A building in which plants are grown in large quantities for sale at either retail or wholesale where the majority of items sold are not produced on site.

Commercial Vehicle - any vehicle registered as a commercial vehicle and/or used for commercial purposes.

Condominium - Individually owned units where open space and group facilities are held in common ownership. Condominiums shall be considered as subdivisions of land and shall be reviewed according to Subdivision Regulations. The use of the condominium shall be regulated under this Ordinance in the same manner as that for any other type of ownership.

Contractor's Yard – Parking and storage of any or all of the following used in off site business: supplies, vehicles, equipment. One commercial vehicle may be parked on a residential lot as exempt from this definition if used by one of the on-site residential tenants as business related transportation.

Cultivation Location - a locked and enclosed site, under the control of an alternative treatment center where cannabis is cultivated, secured with one or more locks or other security devices in accordance with the provisions of this chapter.

Day Care Facilities - Nursery Schools public or private. Licensed establishments offering care for individuals for payment.

Diners, Restaurants, Taverns - Facilities for the preparation and serving of meals and beverages for consumption on premise.

Dwelling - A building designed or used as a place of residence. Only one dwelling is allowed per lot with the exception of apartment complexes.

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, bathroom and sleeping facilities.

Dwelling Unit Accessory to Residential Use - A residential living unit that is within or attached to a single-family dwelling or is within or attached to an attached or detached accessory structure to such principal residence, and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Dwelling Unit Subordinate to Non-residential Use – A residential living unit that is within or attached to the primary commercial, industrial, or institutional unit, complies with the standards of this Ordinance and that provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation on the same parcel of land as the principal dwelling unit it accompanies.

Equestrian Center, Stables - A facility designed for the care and training of horses including riding arenas.

Elderly Housing - Housing which is limited to persons 62 years of age and older as defined by NH RSA 354-A:15(II). The Board may require assurance of compliance by deed restriction or other instrument as condition of use.

Essential Services - The erection, construction, alteration or maintenance by public or private utilities or municipal or other governmental agencies of underground or overhead, gas, electrical, steam or water transmission, or distribution system, including poles, wires, mains, drains, sewer, pipes, conduit cable, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public or private utilities or municipal or other government agencies or for the public health or safety or general welfare.

Excavation - Digging of any type.

Floodplain - An area of land that would be covered with water during a flood. In connection with the Flood Insurance Program, the term refers to the 100-year floodplain.

Fraternal and Social Clubs - An organization catering exclusively to members and their guests.

Frontage - The distance along a lot line on:

a. a Class I or II State Highway, or
b. a Class V Town street, or
c. an approved private street.

Said frontage shall provide vehicular access to the portion of the lot developed, or to be developed with the primary use unless an alternative access is approved through a conditional use permit issued by the Planning Board. An alternative access through a Conditional Use Permit is only permitted when the lot has the required legal frontage. An approved private street shall mean a private street, laid out, including the full width of the street right-of-way, shown on a subdivision plan approved by the Belmont Planning Board. A right-of-way does not provide frontage unless it meets the requirements of RSA 674:41. When relief is sought from the Town's frontage requirement due to lack of frontage, an appeal under RSA 674:41, II shall also be required.

To grant a Conditional Use Permit for alternative access, the Planning Board must find:

1. The lot has frontage as defined by this Ordinance.
2. There is a natural or environmental barrier prohibiting actual access via the legal access; and/or the alternative access increases traffic safety (e.g. reduces the number of access points in a congested area) or reduces or eliminates an environmental impact (e.g. wetlands, steep slopes).
3. The alternative proposed access provides adequate emergency access.
4. The alternative proposed access provides adequate sight distance.
5. If the alternative proposed access encumbers another lot there must be a permanent deeded right to utilize that access.

Funeral Home - A commercial establishment which encompasses the preparation and disposition of the deceased.

Greenways - An open space connector linking parks, permanent preserved areas, cultural features and other significant areas.

Group Living Units - A facility wherein (a.) the operator is not legally related to the individuals supervised and is licensed by the State and wherein (b.) one or more individuals is provided with room, board and care in a family environment.

Halfway House - A supervised residential, therapeutic facility designed to provide a specific program of assistance or treatment to individuals with behavioral disabilities.

Hall - Large room for and/or a place used for public entertainment or assembly, where food and drink may be served.

Hospitals - Institutions providing health services.

Hotel - A building or group of buildings containing guest rooms and facilities which are directly accessible from within the structure.

Impact Fee - a fee or assessment imposed upon development, including subdivision, building construction or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the town, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; public road systems and rights-of-way; town office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities not including public open space."

Industrial Use - Manufacturing, research and testing, assembly, fabrication, processing, reproducing, packaging, packing, bottling, printing or publishing, provided that all resultant dust, gas, odor, smoke, vapors, electromagnetic or radioactive emissions shall be completely and effectively confined within a building or so regulated as to prevent any nuisance or hazard to the general public and further provided that no objectionable noise, vibration, or other disturbance is noticeable at the boundary of the property upon which these activities take place.

Uses not permitted include but are not limited to the following: smelters, blast furnaces, slaughter houses, rendering plants, tanneries, fertilizer plants, processing of ammonia, chlorine, petroleum or explosives.

Interment - The permanent disposition of the remains of a deceased person by cremation and interment, entombment or burial.

Junkyards - All references to junkyards for whatever reason shall be made as applicable under RSA 236:111 thru RSA 236:129.

Laundry, Dry Cleaner - A commercial enterprise for the cleaning of clothes.

Licensed Hawking, Peddling and Vending - Temporary sale of merchandise or service as licensed under the terms of the Ordinance Regulating Hawkers, Peddlers and Vendors as adopted and regulated by the Board of Selectmen.

Light Manufacturing - A use involving the manufacture of a product not requiring heavy, noisy, or otherwise objectionable machinery or transporting equipment.

Lodging House – a facility in which rental sleeping accommodations are provided and in which meals also may be supplied as part of the fee.

Lot - A lot is a parcel of land occupied or to be occupied by only one main building and the accessory buildings or uses customarily incident to it. A lot shall be of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage as required by this Ordinance. However, multiple primary buildings and/or uses, as well as mixed uses, including commercial, industrial and

multi-family complexes shall be allowed on a lot when approved under the Site Plan Review Regulations.

Lot Measurements - Depth of a lot shall be the average distance between front and rear lot lines. Width of a lot shall be the average distance between the lot side lines.

Lot of Record - A lot which is part of a subdivision approved by the Belmont Planning Board and recorded in the Belknap County Registry of Deeds, or a lot or a parcel described by metes and bounds, the description of which was so recorded prior to enactment of the Zoning Ordinance.

Lumber Yards - A commercial enterprise where lumber, building supplies and other similar goods are stored and offered for sale.

Manufactured Housing - Any structure, transportable in one or more sections, which, in its 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 heating systems contained herein. Manufactured housing as defined in this Ordinance shall not include presite built housing as defined in RSA 674:31-a.

Manufactured Housing units brought into the Town of Belmont must bear the construction standard certification seal of the U.S. Department of Housing and Urban Development (H.U.D.); and the unit's date of manufacture shall not be before January 1, 1985, unless the unit owner can show, by certification of the U.S. Department of Housing and Urban Development (H.U.D.), that the unit otherwise complies with all the regulations promulgated by U.S. Department of Housing and Urban Development (H.U.D.) as of January 1, 1985. Manufactured Housing may only be placed in approved manufactured housing parks or manufactured housing subdivisions. Manufactured housing units may not be used for any purpose other than a properly permitted dwelling unit.

Manufactured Housing Park - any parcel of land under single or common ownership or control which contains, or is designed laid out or adapted to accommodate two or more manufactured houses. Nothing herein shall be construed to apply to premises used solely for storage or display of manufactured housing units.

Manufactured Housing Sales Lot - display and sales of manufactured housing units. Units, other than a single sales office unit may not be hooked to any facility. Used units meeting the definition of Manufactured Housing found in this Ordinance, including date of construction, may be placed on the lot for resale for a term not to exceed 12 months. Units not meeting the requirement for date of construction may only be placed on the lot for resale for a term not to exceed 6 months. Salvage, reconstruction or demolition of any unit may only occur within the time frames listed above and only in a separately screened area approved under Site Plan Review.

Manufactured Housing Subdivision - a subdivision of five or more lots created by the subdivider for individual ownership, meeting the regulations and ordinances of the Town, for the placement, for living purposes, of individually owned manufactured housing units.

Manufacturing - Any process whereby the nature, size, shape, finish or appearance of articles is changed or where articles are assembled or packaged.

Medical and Dental Offices - Facilities offering health care services.

Modular Building & Housing – Modular buildings shall be as defined in RSA 205-C:1.XI. For the purposes of this Ordinance, Manufactured Housing shall not be considered Modular Housing.

Motel - A building or group of buildings containing guest rooms which are accessible from outdoor parking areas.

Motor Vehicle:
Any self-propelled vehicle not operated exclusively on stationary tracks, including ski area vehicles. This includes all vehicles, engines, machines, or mechanical contrivances, except electric bicycles and electric personal assistive mobility devices (e.g. mobility scooter), which are propelled on the public highways by internal combustion engines, electric motors, steam engines, or other alternate sources of energy except human or animal power.

Motor Vehicle & Trailer Services, Sales, Repair, Gas Stations and Parts Sales - Property and buildings where gasoline, oil, batteries, tires and motor vehicle & trailer accessories may be sold and where motor vehicle & trailer service and repair and inspections may be carried out including body work, engine repair and overhaul, painting, welding and body work. Motor vehicle & trailer sales and storage is also allowed and parts may be sold.

Movie Theater - A public facility for the showing of movies.

Multi-family dwelling - A residential building designed for and occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Municipal Solid Waste Transfer Station – As defined in the New Hampshire Code of Administrative Rules, Chapter Env-Sw 100, as amended, and in compliance with all applicable laws and rules of the State of NH.

Nonconforming Structure, Use or Lot - A structure or lot, or the use of any land, building or structure, which does not conform to the regulations of the zoning district in which it is carried on or located as of the date this Ordinance becomes effective.

Nursing, Convalescent Facility - An institution where persons are housed for compensation and which is licensed by the State including convalescent hospital, home of the aged, rest homes and similar uses.

Open Space Subdivision - A form of development that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development. Remaining land area is devoted to open space, active and passive recreation, preservation of environmentally sensitive or otherwise significant areas, or agriculture. Open space subdivisions are subdivisions of land and require review and approval under the Belmont Subdivision Regulations.

Parking Space - An off-street space available for the parking of one motor vehicle.

Personal Wireless Service Facilities - any structure, antenna, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), personal communications service (PCS) and common carrier wireless exchange access services.

Petroleum and Propane Gas Bulk Storage Facilities - Petroleum and Propane Gas Bulk Storage Facilities - All facilities shall comply with all local, state and federal requirements. Facilities shall be considered structures and shall meet applicable setbacks.

Above-ground facilities used for the storage for sale or off-site transfer of petroleum, propane gas, or other regulated substances:

1. where such petroleum or other regulated substance facilities have a single tank system with a storage capacity of more than 660 gallons, or a two or more tank/drum combined storage capacity of more than 1,320 gallons; and/or
2. where such propane gas facilities have a combined storage capacity of more than 1,000 gallons.

Under-ground facilities used for the storage for sale or off-site transfer of petroleum, propane gas, or other regulated substances, where such facilities have a total on-site storage capacity of more than 1,110 gallons.

Excluded from both above-ground and under-ground categories above are:

a. facilities used solely for same-site heating or energy;
b. equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
c. facilities for the storage of petroleum and propane gas for individual-customer, on-site retail sales, where the storage use is accessory to a primary sales use, i.e. gasoline/motor vehicle service station, propane refill stations accessory to primary retail stores.

Primary Building or Use - The main or principal building or use on a lot or site.

Radio and Television Installations - A complex housing equipment capable of transmitting and receiving radio and television signals.

Recreational Facilities - Indoor - Any recreational use wholly contained inside a building such as bowling alley, dance hall, gymnasium, tennis center or other indoor commercial amusement facility or place of public assembly.

Recreational Facilities - Outdoor - Any recreational facility which includes use of outdoor facilities such as golf driving range, miniature golf course, water slide, outdoor theater, race track or other outdoor commercial amusement facility or place of public assembly.

Repair Shop/Machine Shops/Small Assembly - Business for repair of small appliances, radios, televisions, office equipment, or similar use; as well as machining, assembly, fabrication, processing and reproducing of small machine, electronic or medical parts.

Resource Recycling - A facility wherein materials are separated in such a way as to be reused either

in their original condition or re-manufactured state. All activity including unloading, dismantling, sorting, cleaning, storage, or loading shall occur entirely within a structure designed for this use.

Retail Sales: The sale of goods, services or merchandise to the general public and which may include rendering services incidental to the sale of such goods, principal services or merchandise

Sales lot – Primary – A lot used for sales of any kind as defined by this Ordinance and regulated by the Belmont Site Plan Regulations. Primary sales lots may be located as allowed under the permitted use table for the specific sales use proposed. Use includes display of sale items. Use requires adequate and appropriate customer and staff facilities including building for related staff, office and sales functions and on-site or municipal water and sewer or septic facilities. Temporary or portable building or facilities including, but not limited to, manufactured housing unit, recreational vehicle, self-contained water, and self-contained sewer units are not considered to meet the criteria of adequate and appropriate. One satellite sales lot, as defined by this Ordinance, is allowed in conjunction with a primary sales lot.

Sales lot – Satellite - A lot used as subordinate to an approved primary sales lot. Both the primary and subordinate lots must be located in Belmont, be in the same ownership, be immediately adjacent to each other and occupied by the same business entity. Only one satellite lot is allowed for each primary lot. Satellite sales lot use is limited to sales display. Structures and facilities normally required for sales use may be located on the adjacent main lot in place of on-site improvements. Salespeople shall be located and business uses shall occur only on the primary sales lot.

Salvage Yard - any business or any place of storage, deposit, dismantling and/or resale, whether in connection with another business or not, of scrap lumber, appliances, building debris, scrap metals and other salvaged items and materials not regulated under the Junk Yard definition.

Sawmill - A commercial enterprise where logs are processed into lumber. Lumber may be sold or stored on site.

Schools, public or private - Educational facilities.

Service Business - A business which provides a service rather than a product to customers for compensation.

Setback –

a. Side and rear setbacks are the distance from the extreme limit of a structure to a property line.

b. Front setbacks are the distance from the extreme limit of a structure to all of the following:

1. the public road Right-of-Way,
2. the public road Easement,
3. the traveled or constructed public way,
4. the private road Easement that serves more than two lots,
5. the traveled or constructed private road that serves more than two lots.

Lots abutting more than one of the above shall have a "front" setback along each. Preexisting lots that do not have a "front" setback shall nonetheless be restricted from building closer to the roads, road right-of-way, or road easements listed above than the minimum required front setback for lots in that zone.

Single-family dwelling - A detached residential building designed for and occupied by one family only.

Site Construction Trailer - Trailer constructed specifically for temporary use on job sites as office or storage facility. Trailer may only be placed on site after the necessary building or Planning Board approval has been obtained and may remain on site only during times of active construction. Unit must remain registered and immediately road worthy. Use of trailer is not to exceed 18 months for any such permitted project. A unit originally manufactured as a manufactured housing unit may not be used for a site construction trailer.

Sludge - means "sludge" as defined by RSA 485-A:2,XI-a, as amended.

Solar -

a. **Commercial Solar**: Any ground mounted or roof mounted solar collection system designed for other than on-site individual residential use and consisting of one or more free standing, ground or roof mounted solar arrays or modules, or solar related equipment. Solar collection system may be for onsite usage or for distribution to the grid.

b. **Residential Solar**: Any ground mounted or roof mounted solar collection system designed for on-site residential use, and consisting of one or more freestanding, ground or roof mounted, solar arrays or modules, or solar related equipment. A ground-mounted residential solar system must not be over 16 feet in height at any point.

c. **Agricultural Solar**: Any ground mounted or roof mounted solar collection system designed to primarily reduce on-site consumption of utility power or fuel that is less than four acres of solar land coverage provided the existing agricultural use is preserved at the time of installation.

d. **Roof Mount**: – A solar collection system that is structurally mounted to the roof of a building or other permitted structure, including limited accessory equipment associated with system which may be ground mounted. For purposes of calculating solar land coverage under the solar definitions in this section, roof mounted portions shall not be included if the system is made up of both roof and ground mounted systems.

e. **Ground Mount**: – A solar collection system and associated mounting hardware that is affixed to or placed upon the ground, including but not limited to, fixed, passive or active tracking racking systems. Ground-mounted residential solar systems are defined as structures that must meet all applicable permitting and zoning requirements. Ground-mounted solar collection systems shall be considered as part of the maximum allowed lot coverage.

Storage Facilities - Vehicles, trailers, shipping containers, or other enclosures being primarily used for on site storage shall be regulated by this Ordinance as to use and shall be considered a structure.

Street - A public thoroughfare, highway, street, road or avenue or private roads, including the full width of its right-of-way, lawfully existing in the Town of Belmont.

Structure - Anything constructed or erected with a fixed location on the ground (not easily moveable by one unassisted individual) or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings, manufactured housing units, membrane enclosures, billboards, and any configuration of modular pieces arranged in such a fashion so as to create a single unit which totals 32sf or larger and/or weighs in excess of 70lbs. Concrete pads used exclusively for vehicle parking or as support for essential utilities (fuel tank, HVAC, electric, etc) are not considered structures.

Treated Soils - soils decontaminated by treatment process and certified for distribution and use as soil under NH Env-Wm 3203, having originally been contaminated with liquids not regulated by the State of NH as hazardous waste as defined under NH Env-Wm 2603.01.

Two-family dwelling - A residential building designed for and occupied by two families living independently of each other in individual dwelling units.

Unrelated Structures - Structures that are not Primary or Accessory in use to one another or are not contained on the same site.

Useable Floor Space - Useable floor space shall be any space which provides more than 4 feet in height.

Veterinary Clinics - A facility for the boarding of and care and treatment of animals. Boarding Kennels are included in this definition if they are used for commercial purposes such as the breeding and raising of dogs.

Warehousing/self-storage Facilities-Exterior – The storage and safekeeping of vehicles, materials, product and other items outdoors or other than in a fully enclosed structure.

Warehousing/self-storage Facilities-Interior – The storage and safekeeping of vehicles, materials, product and other items in a fully enclosed structure.

Water bodies – Any natural or artificial collection of water, whether permanent or temporary.

Watercourse – Any natural or artificial stream, river, brook, ditch, channel, culvert, drain, or gully in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks.

Wetlands - Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to swamps, marshes, bogs and similar areas.