

**TOWN OF NEW ASHFORD
MASSACHUSETTS
ZONING BY-LAWS
August 23, 2009
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ZONING BY-LAWS

SECTION 1: PURPOSE

This By-Law is adopted in accordance with the provisions of Chapter 40A of the General Laws as amended to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of municipalities, to protect the health, safety and general welfare of the present and future inhabitants of the town.

SECTION 2: DEFINITIONS

For the purpose of this By-Law, the following words and terms as used herein shall have the meanings or limitations of meaning hereunder defined, explained or assigned:

ACCESSORY USE OR STRUCTURE: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of the structure. The production of energy or electricity for the use on the same lot is to be considered an accessory use; but sale or transmission of energy or electricity for use off of the same lot shall be prohibited. (Amended ATM 5/16/2000, Approved by AG 7/17/2000)

DWELLING, ONE FAMILY : A detached residential building designed for and occupied by one (1) family only, but not including mobile homes whether placed on a foundation or not.

DWELLING UNIT: One or more rooms constituting a separate, independent housekeeping establishment with cooking, living, sanitary and sleeping facilities for the use of one (1) family.

ENERGY CONVERSION SYSTEMS, GENERATING FACILITIES OR WINDMILLS (hereinafter referred to as "facility": (Added ATM 5/16/2000, Approved by AG 7/17/2000) - Erection, construction or alteration of facilities necessary for the provision of energy conversion or generation, including related transmission, distribution, collection, storage or supply systems whether underground, on the surface or overhead, and other equipment or byproducts in connection therewith and the sale of the energy produced thereby.

FAMILY: One or more individuals related by blood, marriage or adoption, or not more than five individuals who are not so related, living in a single dwelling unit.

HOME OCCUPATION: A business engaged in within a dwelling or accessory building by a resident thereof involving no undue traffic or noise.

MOTOR VEHICLE: Any machine designed and manufactured primarily for highway transportation.

LOT: A single tract or land held in identical ownership throughout, defined by metes and bounds or lot lines in a deed or conveyance, or shown on a duly recorded plan.

LOT, FRONTAGE: The continuous distance along the street line which provides direct access to the lot. A private street approved by the planning board under the Sub-Division Control Law may provide frontage only for lots which are contained within the approved subdivision.

LOT, WIDTH: The width of the lot measured at the minimum front setback line.

MOBILE HOME: A completely enclosed structure built on a permanent chassis, designed as a dwelling unit to be transported after fabrication on its own wheels or on flat-bed or detachable wheels. For the purpose of this By-Law, the term "mobile home" includes trailers incorporating the characteristics of mobile homes as herein defined.

PUBLIC UTILITY : (Added ATM 5/16/2000, Approved by AG 7/17/2000) - Services provided by a public service corporation through erection, construction, alteration or maintenance of Electrical Generating Facilities, gas, steam or water transmission or distribution systems and collection, communication, supply or disposal systems whether underground or overhead. Facilities necessary for the provision of a public utility includes poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

SITE PLAN : (Added ATM 5/16/2000, Approved by AG 7/17/2000) - A plan indicating, but not limited to, the following, lot size and frontage, the location of all existing buildings and structures, the exact location of proposed buildings and structures and their distance from all lot lines, the location of the septic system and well, all streams, ponds and other wetland areas, the access roads, driveways, parking areas, and all proposed site improvements. Said plan must be prepared by a registered professional land surveyor or professional engineer.

STREET: A public way, or a private way either shown on a plan approved in accordance with the Subdivision Control Law, or otherwise qualifying lots along it for frontage under the Subdivision Control Law.

SECTION 3: ZONING DISTRICTS

3.1 For the purposes of this By-Law, the Town of New Ashford is hereby divided into the following two types of use districts; agricultural-residence, and rural business.

3.1.1 Rural Business: Said district is the area located within five hundred feet of both sides of the present Route 7 beginning on the east side of Route 7 at the intersection of Route 7 and Greylock Road and on the west side of Route 7 at the northern lot line of the parcel shown on the Assessor's Map Street 008 Parcel 001 and continuing on both sides of the road to the town boundary with the Town of Lanesborough. (Approved by AG 9/12/2006)

3.1.2 Agricultural-Residence: Said district is the total area within the boundaries of the Town of New Ashford, with the exception of that area within the rural business district.

3.1.3 The location and boundaries of these districts are hereby established as shown on the map entitled "Zoning Map of New Ashford, Massachusetts." dated 9/12/2006 which map with all explanatory matter thereon is made a part of this By-Law, and is on file in the Town Clerk's office.

3.2 Planned unit resort development overlay district

(Amended 10/17/00)

3.2.1 Purpose

The Planned Unit Resort Development (PURD) Overlay District is intended to protect the scenic, historic, natural and other resources of the Town of New Ashford, allowing large existing resorts to remain a viable asset to the community and provide the planning-oriented regulatory framework for new resorts.

3.2.2 District

The PURD Overlay District (the District) includes the properties listed below. These properties are included because of their existing land uses and their proximity to similar land uses. The Overlay District is defined, delineated and mapped on the Map entitled "Planned Unit Resort Development Overlay District Map", and incorporated by this reference herein.

Assessor's Map (sheet) & Parcel #

Sheet 5 Parcel 6, 7

Sheet 10 Parcel 1, 2, 3,4,34

SECTION 4: USE REGULATIONS

Except as provided by law or in this By-Law, no building or structure shall be erected, and no building, structure of land or part thereof shall be used for any purpose or in any matter other than one or more of the uses hereinafter set forth as permitted by right or as permissible by special permit and so authorized.

4.1 Uses Permitted by Right - Agricultural-Residence District.

4.1.1 One family dwelling on a separate lot.

4.1.2 Use of land and structure for agriculture, horticulture or floriculture.

4.1.3 Religious or educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by religious sect or denomination, or by a non profit educational corporation.

4.1.4 Municipal or governmental use including parks, playgrounds or other recreational facilities owned or operated by a town agency.

4.1.5 Accessory uses and structures customarily incidental to a principal permitted use on the same premises, including, but not limited to, the following.

a. The use of a room or rooms in a dwelling or accessory building by a resident occupant for practice of a recognized profession, or by a resident carpenter, painter, plumber, electrician, or other artisan in connection with his trade, or by a resident engaged in any home occupation provided that there is no external evidence of any business other than a permitted sign.

b. Rental of a room or rooms in a dwelling by a resident family provided that no separate kitchen facilities are maintained.

c. The display and sale by a resident of the premises at a roadside stand or otherwise, of natural products the major portions of which are produced on the premises.

d. Display of sign or signs as regulated in Section 6.4 of this By-Law.

e. Mobile home or travel trailer, as regulated in Section 6.5 of this By-Law.

f. Storage of not more than two unregistered motor vehicles.

4.2 Uses Which May be Authorized in the Agricultural Residential District by the Planning Board by Special Permit in Accordance with the Provisions of This By-Law.

4.2.1 Two family dwelling on a separate lot provided the lot area is at least three (3) acres.

4.2.2 A business by a resident in his home or accessory building including, but not limited to, commercial greenhouses, saw mill, dog kennel, appliance repair or gun shop, provided said business created no undue traffic, noise or odor.

4.2.3 Golf course, ski tow, riding stable or other recreational facility of similar character.

4.2.4 Special permit may be issued for an accessory use to a by right use, whether or not the same parcel, which is necessary in connection with scientific research or development or related production, provided the Board finds that the proposed accessory use does not substantially derogate from the public good.

4.2.5 A resident may operate a gravel pit for his own consumption provided it does not create an eye-sore, nuisance, or is hazardous.

4.2.6 The storage of more than two unregistered motor vehicles.

4.2.7 Energy conversion systems or generating facilities, or windmills (hereinafter referred to as facility) may be authorized by special permit issued by the Planning Board upon consideration of the following criteria: (Added ATM 5/16/2000, Approved by AG 7/17/2000)

(a) The height of the facility shall be less than Two Hundred Feet (200') and have a blade clearance of Twenty Feet (20') from the ground.

(b) The facilities shall be sited, where possible, so as to minimize visual impact consistent with economic viability.

(c) The project proponent shall provide projected post-construction simulated views of the facility from up to six view lines as requested with locations as determined by the Special Permit Granting Authority, in a one to three mile radius of the project site; such information shall be included with the application.

(d) The Special Permit Granting Authority may request that the project proponent, fly a 9 1/2 ft. balloon at the highest point and at each end of the array of the facility at the maximum blade tip height of the proposed structures. Notice of the date and time of the flight shall be provided to a newspaper with a general circulation in the town so as to be published at least five days prior to such flight.

(e) The project proponent may be required to provide evidence of liability insurance against loss or damage to persons, including personal injury or death, and structures occasioned by failure of the facility. The Special Permit Granting Authority shall require that any such facility be located at a distance of at least 1.25 times the height of the facility from any structure occupied by Humans and from all property lines. The Special Permit Granting Authority Shall waive the setback restriction from the property lines when the abutters of those affected properties so grant their permission. Said permission shall be in writing and recorded in the Registry of Deeds.

(f) Operational noise, as measured by the latest standards of the American Standards Institute, shall not exceed 60 decibels for more than 15 minutes in any one day when measured from an unobstructed distance from the inhabited structure, except for temporary construction or maintenance work, and shall not likewise exceed 40 decibels from 1,000 feet.

(g) Lighting of the exterior of the facility shall be prohibited. The Special Permit Granting Authority shall be provided with an official determination by the Federal Aviation Administration (FAA) as to its lighting requirements and or Markings.

(h) The Special Permit Granting Authority may impose such safety-related Conditions, including but not limited to fences, gates, or signs as it deems Reasonably necessary in the circumstances; and

(i) The Special Granting Authority may impose such conditions as it deems Reasonably necessary to minimize or mitigate detrimental effects to the environment, including, but not limited to glare caused by construction or operation of the facility; and

(j) The Special Permit Granting Authority may impose as a condition of any Facility special permit that the project proponent be required to mitigate any radio or television interference demonstrated to have resulted from the operation of the facility; and

(k) The project proponent shall be liable for the cost of maintaining the access Road (unless accepted as a public way), the project sites, and the facility and for restoration of any damage occurring during construction or as a result of operation of the facility; and

The Project proponent may be required as a condition of the Special Permit to provide adequate evidence of financial ability, by security instrument or other mechanism reasonably satisfactory to the Special Permit Granting Authority to insure compliance with all conditions in the special permits and to: remove the facility at the end of its useful life or earlier abandonment ("abandonment" shall mean the unexcused failure to operate the facility, except for repair, refurbishment, replacement or upgrading, for consecutive period of six months or more); or to permit the Town to remove such facility at no cost to the Town in the event of the proponent's failure to do so as to set forth above.

4.2.8 Any other use determined by the Board to be similar in character to one or more uses specifically authorized herein, provided the Board finds that the proposed use is in harmony with the general purpose and intent of this By-Law and not offensive or detrimental to the neighborhood. The following uses are expressly prohibited: Junk yard, piggery, fur farm, slaughter house, manufacturing or industrial enterprise, aviation field, commercial saw mill or any use which may create undue traffic or is commonly regarded as hazardous, injurious or noxious.

4.2.9 Common Driveway Standards

A. Purpose: The purpose of a Common Driveway Standards bylaw is to encourage minimum numbers of curb cuts on State Highways and town roads, to avoid erosion and washout, and to protect homeowners and the Town of New Ashford from poorly designed common driveways.

B. Definitions:

1. Driveway: A driveway is an opening cleared and/or constructed on public or private land parcels which provides vehicular access from a land parcel or parcels and the adjacent public way.

2. Common Drive: A driveway serving up to four dwelling units. Common Drives serving more than four dwelling units or businesses are prohibited.

3. Dwelling Unit: A building or part of a building which contains living, sleeping, cooking and housekeeping accommodations for one family.

4. Public Way: A public way is a road which has been accepted by the Town of New Ashford or the Commonwealth of Massachusetts.

C. Application:

1. No person shall construct a Common Driveway from private property onto a public way without first having obtained a Special Permit from the Planning Board. Expenses associated with such permit application are the responsibility of the applicant.

2. Applications for a Common Drive special permit must be accompanied by a plan which shows:

- * The layout and dimensions of the proposed Common Driveway
- * Topographic contour lines, drawn for every ten foot (10 foot) change in elevation
- * Slope calculations
- * Any streams, culvert and drainage structures
- * Indications of proposed construction materials
- * Any necessary Conservation Commission approval

The application for a Common Driveway must be accompanied by a declaration of covenants, easements and restriction for the use and maintenance of said Common Drive.

D. Requirements:

1. Common Driveway can never be used to satisfy zoning frontage requirements. Each lot served shall have frontage on ways, which serve to satisfy frontage requirements under Section 5.1 of the New Ashford Zoning Bylaws.

2. Any building lot being served by a permitted Common Driveway must meet the minimum acreage requirement under Section 5.1 of the New Ashford Zoning Bylaw.

3. Common Driveways shall provide access over approved frontage to lots being served.

4. Common Drives may not be the only access to a lot. Each lot must have the potential for independent access to the public way satisfying the zoning frontage requirement.

5. Entrances onto state highways shall conform to Massachusetts Highway Department Standards and Regulations.
6. Any adjacent disturbed area shall be stabilized and planted with ground cover returned to a useable state after construction is completed.
7. No Common Driveway shall be located within 100 feet of an intersection.
8. The design of the Common Driveway shall assure adequate safety for entry and exit of emergency vehicles such as police, fire and ambulance.
9. In addition to the granting of a special permit, the Planning Board shall endorse its approval on a plan of land showing the location of the Common Driveway, which plan shall be recorded in the Registry of Deeds.

E. Standards:

- (a) All Common Driveways shall meet the following design requirements.
- (b) Common Drives shall have a maximum length of 500 feet.

(1) **Culverts and Drainage:** Existing drainage ditches parallel to public or private roads from which building lots are to be accessed shall not be obstructed by new driveway construction. Culvert of appropriate size and a durable material such as asphalt-coated galvanized steel or smooth interior plastic piping shall be installed at no expense to the municipality. Culvert diameter shall be determined by the Planning Board. In no case shall a culvert diameter of less than 15" be used. Common Driveways shall be provided with 3 feet parallel drainage swales and with culverts allowing storm water to cross the Common Driveway without creating erosion or washouts.

(2) **Turnarounds:**

(a) All new Common Driveways accessed from a numbered state highway or from a "hazardous" thoroughfare shall be provided with means for reversing the direction of a standard sized automobile, so the vehicle may enter the public road facing forward. Such a turnaround may be a "T" or spur.

(b) A "hazardous thoroughfare" is all or part of a public way designated by the Planning Board as having a gradient greater than eight (8) percent, and/or having a normal or seasonal traffic volume which creates a potential safety hazard for vehicles exiting driveways in a reverse facing direction

(3) **Sight Distances:** No new Common Driveway may be located where the minimum sight distance is both directions along the public or private way from which it is accessed is less than one hundred (100) feet for every ten (10) mph of the legal speed limit on that

way. This distance shall be measured at a height of not more than four (4) feet above the elevation of the driveway at its point of intersection with the way.

(4) **Gradients:** Maximum gradient of any permitted Common Driveways shall be 8 % within 35 feet of the edge of the public way (when the driveway is sloping down to the way), and gradient of no more the 10% for an unpaved drive and 12% for a paved drive.

(5) **Construction Materials:** All permitted Common Driveways must be constructed with a minimum 8" of sand and gravel ("bank run" or better) in which there are no stones greater than 4" in diameter. This shall be overlain by at least 4" of 2" screened gravel. Common drives of between 5% and 8% grade within 35 feet of the public way shall be stabilized with either a minimum 2" bituminous concrete or two coats of liquid asphalt (applied at a rate of not less than ½ gallon per square yard) to prevent unstabilized driveway material from washing out into the public way.

(6) **Width of Driveway:** The width of the driveway must be at least 16 feet for paved or unpaved drives. A minimum of 3 feet on either side of the driveway is required for drainage.

4.3 Uses Permitted By Right - Rural Business District

4.3.1 One family dwelling on a separate lot.

4.3.2 Use of land and structure for agriculture, horticulture or floriculture.

4.3.3 Religious or educational use on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, or by religious sect or denomination, or by a non profit educational corporation.

4.3.4 Municipal or governmental use, including parks, playgrounds or other recreational facilities owned or operated by a town agency.

4.3.5 Accessory uses and structures customarily incidental to a principal permitted use on the same premises, including, but not limited to the following:

a. The use of a room or rooms in a dwelling or accessory building by a resident occupant for practice of a recognized profession, or by a resident carpenter, painter, plumber, electrician, or other artisan in connection with his trade, or by a resident engaged in any home occupation, provided that there is no external evidence of any business other than a permitted sign.

b. Rental of a room or rooms in a dwelling by a resident family provided that no separate kitchen facilities are maintained.

c. The display and sale by a resident of the premises at a roadside stand or otherwise, of natural products, the major portions of which are produced on the premises.

- d. Display of sign or signs as regulated in Section 6.5 of this By-Law.
- e. Mobile home or travel trailer as regulated in Section 6.5 of this By-Law.
- f. Storage of not more than two unregistered motor vehicles.

4.4 Uses Which May be Authorized in a Rural Business District by the Planning Board by Special Permit in Accordance with the Provisions of This By-Law.

4.4.1 Two family dwelling, on a separate lot provided lot area is at least three (3) acres.

4.4.2 A business by a resident in his home or accessory building including, but not limited to, commercial greenhouses, saw mill, appliance repair, or gun shop, provided said business creates no undue traffic, noise or odor.

4.4.3 Golf course, ski tow, riding stable, or other recreational facility of similar character.

4.4.4 Special permit may be issued for an accessory use to a by right use, whether or not on the same parcel, which is necessary in connection with scientific research or development or related production, provided the Board finds that the proposed accessory use does not substantially derogate from the public good.

4.4.5 Retail business or consumer service establishment including, but not limited to, grocery store, barber or beauty shop, antique shop, eating establishment, bank, or other use, motel, auto service station, repair shops, auto storage garage, and auto sales room.

4.4.6 A resident may operate a gravel pit for his own consumption, provided it does not create an eye-sore, nuisance, or is hazardous.

4.4.7 Trailer park for transient use, provided no occupied trailer remains on one lot for more than thirty (30) days in succession from August 16 - June 14, and with no limitation on successive days from June 15 through August 15.

4.4.8 Manufacturing or assembly of a light industrial nature employing not more than twenty (20) employees provided that it is in harmony with the general intent and purpose of the zoning by-law.

4.4.9 The storage of more than two unregistered motor vehicles.

4.4.10 Any other use determined by the Board to be similar in character to one or more uses specifically authorized herein, provided the Board finds that the proposed use is in harmony with the general purpose and intent of this By-Law and not offensive or detrimental to the neighborhood.

4.4.10 The following uses are expressly prohibited: Junk yard, piggery, fur farm, slaughter house, aviation field, commercial saw mill, or any use which may create undue traffic or which is commonly regarded as hazardous, injurious, or noxious.

4.5 Uses allowed in a PLANNED UNIT RESORT DEVELOPMENT District and provisions for such are detailed in section 11. (Amended 10/17/00)

SECTION 5: INTENSITY REGULATIONS

5.1 Any building or structure used for dwelling purposes or housing a principal permitted use, shall be so located on a lot as to meet the following requirements, except as specifically otherwise provided in this By-Law.

a. The lot area shall not be less than two (2) acres and the frontage and width not less than two hundred feet (200'). (Amended ATM 5/19/2009, Approved by AG 8/20/2009)

b. The minimum front setback for any structure or building shall be twenty (20) feet and side and rear setbacks not less than twenty (20) feet. Front setback is to be measured from the Right-of-Way line where a plan of the way is on file with the Registry of Deeds, or, in the parallel with the center line of the travel way.

c. An accessory building may be erected in the minimum side or rear setback area by a special permit from the Planning Board.

d. No building in the agricultural-residential district may be more than two (2) stories above the high finished grade abutting the building.

e. No building in the rural business district may be more than two (2) stories above the high finished grade except commercial structures. A commercial building exceeding two stories but not greater than four stories above the high finished grade requires a special permit from the Planning Board.

f. No more than one dwelling or principle building shall be located on a lot with the exception of structures and uses which are exempt from the provisions of this subsection by virtues of the provisions of M.G.L., CH 40A, Sec. 3.

g. PURD provisions for intensity defined in Section 11 will supersede and replace the dimensional requirements for the underlying zoning district in which the PURD is proposed. A tract or tracts of land in a proposed PURD must be in one ownership or control or the subject of a joint application by the owners of all properties included.(Amended 10/17/00)

SECTION 6: SPECIAL PROVISIONS

6.1 Nonconforming Structured Uses and Lots.

6.1.1 The provisions of this By-Law shall not apply to structures or uses lawfully in existence or lawfully begun at the time of the adoption of this By-Law, nor to any alteration, reconstruction, extension or structural change to a One-Family or Two-Family dwelling as provided in Section 6, Chapter 40A, of the General Bylaws.

6.1.2 Any preexisting nonconforming structure or use may be re-built or re-established within two (2) years if damaged or destroyed by fire or other catastrophe.

6.1.3 Pre-existing nonconforming structures or uses may be extended, altered or changed to another nonconforming use by a special permit from the Planning Board, provided that the Board finds that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

6.1.4 A nonconforming use of land or structure which has been abandoned or not used for a period of two years or more shall not be re-established and any future use of such premises shall conform to this By-Law, except by special permit from the Planning Board.

6.2 Special Permits

Any board designated as Special Permit Granting Authority in this By-Law may hear and decide applications for special permits upon which such board is specifically authorized to act under this By-Law, in accordance with the provisions of Section 9, Chapter 40A, of the General Laws.

6.2.1 Special permits shall only be issued following public hearings held within sixty-five (65) days after filing of an application with the Special Permit Granting Authority.

6.2.2 A special permit shall lapse in two (2) years if a substantial use or construction has not begun under the permit by such date except for a good cause.

6.2.3 Before granting a special permit for any use requiring such permit under the provisions of the By-Law, the Special Permit Granting Authority shall find the proposed use: (Added 5/16/00, Approved by the AG 7/17/00)

a. Is in compliance with all provisions and requirements of this By-Law, and in Harmony with its general intent and purpose;

b. Is essential or desirable to the public convenience or welfare at the proposed Location.

c. Will not be detrimental to adjacent uses or to the established or future character of the Neighborhood;

d. Will not create undue traffic congestion, or unduly impair pedestrian safety;

e. Will not overload any public water, drainage or sewer system or any other Municipal facility to such an extent that the proposed use or any existing Use in the immediate area

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

6.2.4 Special permits may be issued subject to such conditions, safeguards or Limitations as the Special Permit Granting Authority may impose for the protection of neighboring uses or otherwise serving the purposes of the By-Law. Any conditions, safeguards or limitations shall be imposed in writing and shall be made a part of the special permit which shall be issued in the name of the property owner(s) and of the building permit, if any (Added 5/16/00, Approved by the AG 7/17/00)

6.2.5 As a standard procedure, any application for a special permit shall be Accompanied by a Site Plan. Site Plan requirements should be related to the location and nature of the proposed use. Technical requirements for a Site Plan may be waived by the Special Permit Granting Authority for Special Permits involving uses and accessory uses when the nature of the permit would not warrant preparation of a Site Plan. (Added 5/16/00, Approved by the AG 7/17/00)

6.3 The Special Permit Granting Authority may also require a construction drawing showing the size and height of proposed buildings, and other information that is reasonably necessary in order for an informed decision to be made by the Special Permit Granting Authority.6.3.3 off Street Parking Provisions

6.3.1 Any building or structure hereafter erected or converted to another approved use in any district shall be located on a lot sufficient in size so as to provide a suitable off street parking are with adequate disposal of storm water, capable to accommodate, in the judgment of the Board of Selectmen, parked vehicles for maximum use in the proposed facility.

6.3.2 Commercial and public parking areas shall be located a minimum of twenty (20) feet from existing side and back property lines.

6.4 Sign Regulations

6.4.1. Permitted Accessory Sign

a. One sign, not exceeding two (2) square feet in area and bearing only names of residents or other identification of premises not having commercial connotations or commonly used warning signs.

b. One sign, not exceeding six (6) square feet in area, and with no side exceeding three (3) linear feet, for a permitted accessory use on the premises.

c. Two signs for commercial or other nonresidential uses not exceeding twelve (12) square feet in total area and with no side exceeding four (4) linear feet, except by a special permit from the Planning Board.

6.4.2 Sign Restrictions

a. No sign shall use moving parts, noise-making devices, or blinking, rotating, or flashing or red lights, or lights changing in light intensity, and no sign attached to a building or structure shall be placed on or above the roof of said building or structure.

b. A freestanding sign may not exceed fourteen (14) feet in height above grade or be closer to the front property line than five (5) feet in a residential zone and may be on the front property line in a commercial zone, except with a special permit from the Planning Board where the Board finds that the requirements of the particular location dictate height or smaller setback.

c. No sign shall be located off the premises to which it applies, except that directional, informational, or identification signs may be permitted by special permit from the Planning Board where the Board finds that such signs will serve the public convenience and not be detrimental to the neighborhood with respect to size, location or design.

6.5 Travel Trailer or Mobile Home as a Temporary Dwelling

6.5.1 Travel trailer or mobile home may be occupied by a special permit from the Board of Selectmen for temporary living quarters for one (10 year by the owner of the lot on which a new dwelling is under construction for owner occupancy, subject to the approval of the Board of Health as to the water supply and sewage disposal facilities. Such special permit may be extended if the work on the dwelling is proceeding in good faith.

6.5.2 Mobile home may be occupied as a temporary dwelling for a period not to exceed twelve (12) months by the owner and occupier of a residence which has been destroyed by fire or other natural holocaust while the residence is being rebuilt on the same lot subject to the approval by the Board of Health prior to its occupancy.

6.6 Outdoor Lighting: The regulation of outdoor lighting is intended to: enhance public safety and welfare by providing for adequate and appropriate outdoor lighting, provide for lighting that will complement the character of the town, reduce light pollution, light trespass, and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of New Ashford, and conserve energy and decrease lighting costs without decreasing nighttime safety, security, and productivity.

6.6.1 Applicability: The requirements of this section shall apply to outdoor lighting on lots in all districts but shall **not** apply to:

- a. Light fixtures using an incandescent lamp or lamps of 1150 watts or less, or using a non incandescent lamp or lamps of 50 total watts or less on lots where one or two family dwellings are the principal uses.
- b. Street lighting (lights that control traffic or other lighting for public safety on streets and ways).
- c. Temporary emergency lighting needed by the Police Department, Fire Department or other emergency services.

- d. Temporary decorative holiday lighting during the months of November, December, and January, provided that such lighting does not cause dangerous glare on adjacent street or properties.

When an existing outdoor lighting installations being modified, extended, expanded, or added to, the entire outdoor lighting installation on the lot shall be subject to the requirements of this section.

6.6.2 Terminology: In addition to the terms defined in Section 2, Definitions, of this Bylaw the following words, which are technical terms applying to lighting, which are set forth below, shall have the meaning indicated below. Although set forth here for convenience, the terms shall have the same effect as if set forth in section 2, Definitions.

Color-rendering Index (CRI): A measurement of the amount of color shift that objects undergo when lighted by a light source as compared with the color of those same objects when seen under a reference light source of comparable color temperature. CRI values generally range from 0 to 100, where 100 represents incandescent light. Typical CRIs of various lights range as follows: Low pressure sodium (orange, -44 CRI); High pressure sodium (yellow-orange, 22 CRI); Metal Halide (icy white, 70-75 CRI); Mercury Vapor (cool blue-white, 50 CRI); compact fluorescent (cool green-white, 82 CRI)

Fixture: the assembly that houses a lamp or lamps, and which may include a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or refractor, lens, or diffuser lens.

Foot candle: A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

Glare: Light emitted from a luminaire with an intensity great enough to produce annoyance, discomfort, or a reduction in a viewer's ability to see.

Height of Luminaire: The vertical distance from the ground directly below the centerline of the luminaire to the lowest direct light emitting part of the luminaire.

Lamp: The component of the luminaire that produces the actual light.

Light trespass: The shining of direct light produced by a luminaire beyond the boundaries of the lot on which it is located.

Lumen: A measure of light energy generated by a light source. One foot candle is one lumen per square foot. For the purposes of this bylaw, the lumen output shall be the initial lumen output of the lamp, as rated by the manufacturer.

Luminaire: A complete lighting system including a lamp or lamps and fixture.

Shielded: When referring to an outdoor light fixture means that the fixture allows no up-light.

Up-light: Direct light emitted by an outdoor light fixture above a horizontal plane through the fixture's lowest light emitting part.

6.6.3 Lighting Plan: Wherever outside lighting is proposed, every application for a building permit, a special permit, a special permit with site plan review, a variance, or an electrical permit, shall be accompanied by a lighting plan which shall show:

- a. The location and type of any outdoor lighting luminaries, including the height of the luminaire.
 - b. The luminaire manufacturer's specification data, including lumen output and photometric data showing cutoff angles.
 - c. The type of lamp such as: Metal halide, compact fluorescent, high pressure sodium.
 - d. A photometric plan showing the intensity of illumination at ground level, expressed in foot candles.
 - e. That light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross section drawings, or other means.
- The Planning Board shall have the right to waive all or parts of the requirement of a Lighting Plan.

6.6.3 Prohibited Light Sources

- a. Searchlights: The operation of searchlights for advertising purposes is prohibited.

6.6.4 Control of Glare and Light Trespass

- a. All outdoor light fixtures subject to this bylaw shall be shielded.
- b. All outdoor light fixtures subject to this bylaw shall be equipped with whatever additional shielding, lenses, or cutoff device required to eliminate light trespass onto any street or abutting lot.

6.6.5 Lamps: Lamp types shall be selected for optimum color rendering as measured by their color rendering index (CRI), as listed by the lamp manufacturer. Lamps with a color rendering index lower than 65 are not permitted. This paragraph shall not apply to temporary decorative holiday lighting, which may include colored lamps.

6.6.6 Hours of Operation: Outdoor lighting shall not be illuminated between 11:00 pm and 6:00 am with the following exceptions:

- a. If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases.
- b. Low level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 pm and 6:00 am, provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.

SECTION 7: ZONING BOARD OF APPEALS

7.1 There shall be a Zoning Board of Appeals consisting of three (3) members and two (2) associate members to be appointed by the Board of Selectmen as provided in Section 12, Chapter 40A, of the Mass. General Laws. The Board shall act within its statutory powers as provided in Section 14, Chapter 40A (MGL) and on matters within its jurisdiction under this By-Law in a manner prescribed in Section 15, Chapter 40A (MGL). This Board of Appeals shall also serve as the Board of Appeals under the Sub-

Division Control Law as provided in Chapter 41, Section 80-Z of the Mass. General Laws.

7.2 Variances

To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel or land to an existing building thereon a variance from the terms of this By-Law where, owing to circumstances relating to soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not generally affecting the zoning district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this By-Law, but not otherwise.

7.3 Appeals

To hear and decide an appeal taken by any person aggrieved by reason of his inability to obtain a permit from any administrative official under the provisions of Chapter 40A, Mass General Laws, or by any officer or board of the town, or by any person aggrieved by any order or decision of the inspector of buildings or other administrative official in violation of any provision of Chapter 40A, Mass General Laws, or of this By-Law. Any such appeal must be taken within thirty (3) days from the date of the order or decision which is being appealed by filing a notice of appeal with the Town Clerk as provided by Section 15, Chapter 40A (MGL).

SECTION 8: ADMINISTRATION AND ENFORCEMENT

(Amended 5/16/00, Approved by the AG 7/17/00)

8.1 This By-Law shall be administered by the Board of Selectmen. A Zoning Enforcement Officer (ZEO) (Who may also be the Building Inspector) shall be appointed by the Board of Selectmen and shall serve at their pleasure and under their authority and supervision. Enforcement of this By-Law is vested in the ZEO.

8.1.1 No permit shall be issued by the Inspector of Buildings until he/she is satisfied That the application is in compliance with this By-Law and any other applicable Town By-Laws and regulations. The application for a Building Permit must also be in compliance with the State Sanitary Code and the Board of Health Regulations, the Planning Board's Subdivision Control Regulations and Wetlands Protection Act, if applicable.

8.1.1 No permit or license shall be granted for a new use of a building, structure or land which use would be in violation of this By-Law.

8.1.2 Any home occupation or other permitted accessory use established hereafter Under this By-Law, involving on-premises sale of articles or services, shall require a Certificate of Occupancy from the Inspector of Buildings, Such certificate shall be issued to any applicant provided the proposed home occupation or accessory use is in compliance with the provisions of this By-Law and with all applicable statues and regulations.

8.2 Construction and Use to be as provided in Permits

As authorized by MGL c. 40A, Section 9, there shall be one associate member of the New Ashford Planning Board. Such associate shall act on special permit applications, when the Planning Board is the Special Permit granting authority. When designated to do so by the Planning Board Chairman, in case of absence, inability to act or conflict of interest on the part of any member of the Planning Board, or in the event of a vacancy on the Board, the associate member shall be appointed for a three (3) year term and shall be elected at the annual Town Meeting (Amended 10/17/00)

8.2.1 Special permits or building permits issued on the basis of plans and applications Approved by the Board of Selectmen, Board of Health, Inspector of Buildings or the Zoning Board of Appeals authorize only the use, arrangement and construction as set forth in such approved plans and applications. Use, arrangement or construction at variance with that authorized shall be deemed a violation of this By-Law and punishable as provided herein.

8.2.2 Construction or operation under a building or special permit shall conform to Any subsequent amendment of this By-Law unless the permit is issued before the first publication of the required notice of public hearing by the Planning Board on such amendment, and the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and in cases involving construction, unless construction is continued through to completion as continuously and expeditiously as is reasonable.

8.2.3 Every use permitted by right or authorized by special permit under the Provisions of this By-Law, shall be subject to the State Building Code, State Sanitary Code, and the Town's Board of Health Regulations and all other applicable statutes, By-Laws regulations and deed restrictions, if any.

8.3 Violation

8.3.1 If the Zoning Enforcement Officer and/or the Inspector of Buildings is Requested in writing to enforce this By-Law against any person allegedly in violation of it and the Zoning Enforcement Officer and/or Inspector of Buildings declines to act, he shall notify, in writing, the party requesting such enforcement, of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

8.3.2 Whoever shall violate any provision of this By-Law or fails to comply with any of its requirements shall upon conviction thereof be fined not more than three hundred dollars (\$300) for each offense. Each day such violation continues shall constitute a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as it deems necessary to prevent or remedy any violations.

8.3.3 Non criminal Disposition

In addition to the procedures for enforcement as previously described, the provisions of this zoning By-Law may also be enforced by the Zoning Enforcement Officer and/or Building Inspector, by non-criminal disposition pursuant to the provisions of MGL Chapter 40, Section 21D. Each day on which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this By-Law shall be fifty Dollars (\$50.00) for the first offense; One Hundred Dollars (\$100.00) for the second offense; and Three Hundred Dollars (\$300.00) for the third and each subsequent offense. The Building Inspector shall issue a citation on an approved form, when implementing the provisions of this section.

SECTION 9: AMENDMENT AND VALIDITY

9.1 Amendment

This By-Law may be amended from time-to-time in an annual or special town meeting in accordance with Chapter 40A, Section 5, of the Mass General Laws.

9.2 Validity

9.2.1 This By-Law, or any amendment thereto, shall take effect on the date on which such adoption or amendment is voted by the town meeting.

9.2.2 This By-Law repeals and replaces the Zoning By-Law adopted on February 12, 1968, and subsequent amendments made thereto.

9.2.3 The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

SECTION 10: FLOOD PLAIN OVERLAY DISTRICT

10.1 Purpose

10.1.1 The purpose of the Flood Plain District are to protect the public health, safety, and general welfare, to protect human life and property from hazards of periodic flooding, to preserve the natural flood control characteristics, and flood storage capacity of the flood plain, and to preserve and maintain the ground water table and water recharge areas within the flood plain.

10.2 District Delineation

10.2.1 The general boundaries of the Flood Plain District are shown on the "FIA FLOOD HAZARD BOUNDARY MAP" prepared by the Department of Housing and Urban Development, Federal Insurance Administration, in the Town of New Ashford (map), dated November 22, 1974 as zones to indicate the 100 year flood plain. The exact boundaries of the District are defined by the 100 year water surface elevations shown on the Map.

10.2.2 Within A, where the 100 year flood evaluation is not provided on the Map, the developer/applicant shall obtain any existing flood elevation data and it shall be reviewed by the Building Inspector. If the data is sufficiently detailed and accurate, it shall be relied upon to require compliance with this By-Law and the State Building Code.

10.3 Use Regulations

10.3.1 The Flood Plain District is established as an overlay district to all other districts. All Development, including structural and non-structural activities whether permitted by right or special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the flood plain (currently Section 744).

a. Permitted Uses

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

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

b. Special Permits

No structure of building shall be erected, constructed, substantially improved, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a special permit is granted by the Zoning Board of Appeals. Said Board may issue a special permit hereunder (subject to other applicable provisions of this By-Law if the application is compliant with the following provisions:

1. The proposed use shall comply in all respects with the provisions of the underlying District.
2. Within 10 days of receipt of the application, the Board shall transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health,

Building Inspector, Road Superintendent, and Board of Selectmen. Final action shall not be taken until reports have been received from the above Boards or until 35 days have elapsed.

3. All encroachments, including fill, new construction, substantial improvements to existing structures, and other developments are prohibited unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in an increase in flood levels during the occurrence of the 100 year flood.

4. The Board may specify such additional requirements and conditions it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed use.

5. In Zone A any new construction and any substantial improvements to existing buildings or structures must, in addition to the above requirements, comply with the following:

5.1 Residential structures have the lowest floor (including basement) elevated above the crown of the nearest street to or above the depth number specified on the community's MAP ; or be flood proofed to or above that level. The term "flood proofed" is defined to mean "watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

SECTION 11: PLANNED UNIT RESORT DEVELOPMENT PROVISIONS (Amended 10/17/00)

11.1 Definition

A. Planned Unit Resort Development (PURD) may be allowed by Special Permit by the Planning Board in the Planned Unit Resort Development Overlay District in compliance with this section, upon satisfactory completion of Site Plan Review. A Planned Unit Resort Development is a self-contained complex insulated from and not intruding upon surrounding areas, to be redeveloped or expanded to provide all of the following for guests: housing, outdoor recreation and services for guests. A PURD will include a Resort Master Plan, described in Section 11.3.

11.2 Permitted Uses

The permitted uses are intended to be possible multiple components of an overall resort character and quality and the actual mix may be proposed as part of the Resort Master Plan. Uses may include: conference centers, lodging and housing facilities, dormitory-style facilities for seasonal employees, restaurants, retail shopping active (skiing, snowboarding, swimming; golfing, tubing, tennis, alpine slides, club-houses, horseback riding, bicycling) and passive (walking, hiking, picnicking,) recreational uses and other resort activities as allowed by the Planning Board which are compatible with the PURD. Permitted uses shall not include any noxious, offensive, or unsightly uses, or excessive

noise or lighting. Only open or screened material extraction, warehousing or equipment repair directly related to the resort shall be permitted.

11.3 Special Permit Submission Requirements & Procedures

The request for a Special Permit of a PURD shall be submitted in two steps: 1.) The applicant shall submit an application for a Special Permit to the Town Clerk in conformance with Section 6.2 and MGL Chapter 40A Section 9; accompanied by the Resort Master Plan plus seven copies to the Town Clerk; 2.) Following approval of the Resort Master Plan the applicant shall submit for Site Plan Review each phase of proposed development pursuant to the Resort Master Plan.

11.3.1 Filing Fee

The application filing and all other associated fees required for the Special Permit process shall be paid by the applicant

11.3.2 Resort Master Plan

Project approval will be dependent on an approved Resort Master Plan and conformity with the requirements of Site Plan Review described later in these bylaws. The Resort Master Plan will enable the applicant and all appropriate boards to discuss the project and clarify potential issues prior to proceeding to granting the Special Permit and shall describe in detail the following:

1. Existing conditions including zoning boundaries, property boundaries, slopes greater than 20%, elevations higher than 1900 feet according to the National Geologic Vertical Datum maps, and environmentally sensitive areas (wetlands, rivers/streams, rare and endangered species habitat including associated setbacks and buffers.)
2. Contours for areas to be developed shall be shown at two-foot intervals; contours for ski/tubing/snowboarding trails and areas to remain undeveloped may be shown at 10-foot intervals.
3. Proposed uses and their locations on the site including pedestrian & vehicle circulation, parking, open space, recreational trails, and commercial and housing facilities and their uses, building types and densities.
4. Potential impacts on the community, including traffic, water supply, sewage disposal and stormwater.
5. Proposed method to provide adequate utilities, water and sewage disposal, and stormwater management.
6. Proposed fire protection plan
7. Proposed lighting plans.
8. Names and addresses of all abutters as they appear on the most recent tax list

9. Such additional information as deemed necessary by the Planning Board to enable its members to review and act upon the proposed project, such as hours of use and noise levels.

11.3.3 Special Permit Public Hearing

Upon receipt of an application for Special Permit for a PURD, the Planning Board shall, within sixty-five (65) days, and in conformance with the requirements of MGL Chapter 40A Section 9, hold a public hearing. Because of the comprehensive nature of the permitting process, this hearing, where practical and legal, shall be held in joint session with other permit granting authorities and requirements including, but not limited to, Conservation Commission, Board of Health, Building Inspector, Fire Chief, Department of Public Works, and Board of Selectmen. The applicant, his/her engineer, surveyor and other professionals affiliated with the project shall be present at the Public Hearing,

11.3.4 Special Permit Approval/Denial

Within ninety (90) days of the completion of the hearing, the Planning Board shall either approve or deny the Special Permit request based on whether, in an overall sense, the Application for the Resort Master Plan meets the purposes of the Overlay District and the Special Permit Criteria defined in Section 6.2.

If the Planning Board intends to approve the Special Permit, it shall first make findings that the Master Plan complies with the requirements of Section 11 and the Zoning Bylaws of the Town of New Ashford and require a super majority vote of the Planning Board.

If the Planning Board issues the special permit, the permit shall incorporate the Master Plan as a condition of such permit and shall require that any development under such Special Permit comply with the Master Plan. Performance Bonding/Security Bonding may be required for specific components of the PURD as determined by the Planning Board. Each phase of development shall contain either a commercial or recreational component; no phase of development shall contain residential development only.

Special Permit Conditions will include Site Plan Review as described below.

11.4 Provision of Independent Consultant

Upon submission of an Application for a Special Permit or Site Plan Review the applicant shall, if deemed necessary, pay a review fee in an amount to be determined by the Planning Board pursuant to M.C.L.C. 44, S.53-1/2 consisting of reasonable costs to be incurred by the Planning Board for the employment of independent consultants. These consultants shall be qualified professionals in their respective fields and shall be selected after consultation with the Conservation Commission, Board of Health, Fire Chief and other permit granting authorities.

11.5 PURD Resort Site Plan Review

In addition to the Resort Master Plan, the Special Permit will require a Resort Site Plan for each phase of the development be reviewed and approved by the Planning Board. The Resort Site Plan may contain such additional conditions, modifications, restrictions and requirements, as the Planning Board deems necessary to effectuate the purposes and requirements of this section. The applicant will supply an original Resort Site Plan plus seven copies to the Town Clerk.

Filing Fee

The filing and all other associated fees required for the Site Plan Review process shall be paid by the applicant.

11.5.1 Required Resort Site Plan Contents

The applicant shall submit a Resort Site Plan, for the entire project or for a single phase of the plan, prepared by a professional Engineer or Registered Landscape Architect at a scale of no less than 1" = 40' clearly illustrating the following:

- 1 . Location, size and height of all proposed and existing structures.
2. Location, size and height of all signs including, if any, illumination methods.
3. Schematic grading plan showing elevations at critical points
4. Proposed planting plan showing existing plants to remain and proposed plantings
5. Location of all existing and proposed open space and plans to assure its preservation.
6. Location, type and size of all utilities, water and sewage disposal systems.
7. Location and screening of all solid waste disposal areas.
8. Location, size and number of parking spaces in parking lots, number of entrances, exits, aisles, circulation patterns and directional signage
9. Location, size and number of all lights including photometric
10. Reports regarding traffic generation.
11. Locate all existing and proposed roads, driveways, and trails, including road lengths, widths and profiles.
12. Show the location of all rare and endangered species habitat, including at a minimum the "Estimated Habitats" and "Priority Habitats delineated in the most current Natural Heritage and Endangered Species Program Atlas.

13. Show the location of all water resource areas, including wetlands, vernal pools, lakes and ponds, rivers and streams, and their respective buffer zones as cited in the Massachusetts Wetlands Act.

14. Show the location of all wells and surface waters, on and off the premises, from which water will be drawn for use within the resort, including but not limited to drinking water, irrigation, and snow-making.

15. Show the location of all historical and archeological resources.

16. Show the location of all stormwater control structures, including measures to control runoff during construction and post-construction conditions.

11.5.2 Site Development Guidelines for Planned Unit Resort Development

In considering the issuance of a Special Permit, the Planning Board has developed the following Site Development Guidelines that will govern the development of the Site. In order to satisfy the required condition for the Special Permit the applicant shall adhere to these guidelines:

A. GENERAL GUIDELINES

1. New structures located within 100' of overlay boundary shall be sited to minimize impact to abutting property owners. New structures within overlay zone shall conform to underlying zone setbacks.

2. Demonstrate compliance with the requirements of other regulatory boards (Conservation Commission, Board of Health, Fire Department, Police Department. etc.).

3. The development should be sited to protect important natural, historic, or scenic features of the town.

4. The applicant should demonstrate adequate disposal of refuse. All refuse collection areas should be screened from public rights of way and adjoining properties.

5. Outdoor lighting fixtures newly installed or replaced shall be shielded at the source so as not to produce a strong direct light beyond property boundaries. The light level at the lot line shall not exceed 0.2 foot-candles, measured at ground level. No outdoor light shall be located at a height greater than 25 feet; with the exception of lights on ski/tubing/snowboarding trails, which may reach 35 feet in height.

B. SEWER, WATER & OTHER UTILITIES GUIDELINES

1. Water withdrawal and sewer disposal facilities shall be in compliance with all state and local requirements.

2. The applicant shall establish to the satisfaction of the Planning Board that the water needs of the development have been met and that provision has been made for adequate water for fire protection, and water withdrawals will not adversely impact other wells in the community.

C. ROADS & PARKING GUIDELINES

All roads within the development shall be constructed and maintained to a standard at least equal to the contemporary requirements for a subdivision road at the time of the filing of the application for a Resort Master Plan Special Permit, and shall remain private. Off-street parking shall be in accordance with table included in this bylaw:

PRINCIPAL USE NUMBER OF SPACES

One and two family units 1 space for each unit

Townhouses 1 space for each unit

Motels & resorts 1 space for each sleeping room, plus

1 space for every two employees, plus

1 space for every 300 square feet of retail space

Retail business 1 space for each 300 square feet of service

Establishment gross floor area Handicapped-accessible spaces

Total # of spaces provided required minimum# of accessible spaces

1 to 25 1

26 to 50 2

51 to 75 3

76 to 100 4

101 to 150 5

151 to 200 6

201 to 300 7

301 to 400 8

401 to 500 9

501 to 1000 2 % of total

Over 1000 20 spaces plus one for each 100 over 1000

Handicapped-accessible parking spaces shall be 15' wide x 20' long and conform to all aspects of the requirements of A.D.A.

Circulation patterns for pedestrians and for bicycles should be developed so as to minimize conflict with vehicular circulation. Wherever possible joint access and common driveways shall be utilized.

D. PROTECTION OF NATURAL RESOURCES

To the extent possible, minimize the amount of impervious surface area in the designing of buildings, parking lots, driveways and walkways.

Avoid development in areas that have a direct impact on wetlands and the habitat of rare and endangered species, and to the extent possible; incorporate these areas into permanent Open Space.

Avoid multiple wetland crossings.

Comply with and satisfy concerns and aspects of applicable state laws and regulations and regulations of the New Ashford Conservation Commission at the time of submission.

.11

Develop a Sedimentation and Erosion Control plan to be instituted during the construction process.

Submit grading and drainage plans to demonstrate to the Planning Board and the Conservation Commission that adequate protection against the impacts of stormwater runoff and soil erosion, both during and after construction, will be managed. The plan shall show existing and proposed contours, location and scope of stormwater control measures, and shall comply with the Massachusetts Stormwater Management Policy.

Submit a stormwater management plan that will describe the process and procedures that will take place to insure that the stormwater control measures will function and be maintained properly.

E. BUILDING

1. Density of development shall not exceed 1,150 square feet per acre prior to Open Space bonuses and will be based upon the total acreage within the PURD. The distribution of square footage shall be as follows:

Commercial: Up to 250 square feet of commercial space may be created per acre. Commercial uses shall be defined as offices, restaurants, retail shops, maintenance facilities, and buildings that support recreational uses. Also included are cell towers, windmills, radio towers and the fenced in areas that surround these structures. Uses occurring inside a hotel/motel not directly associated with the renting of rooms including meeting/banquet rooms, health spa, indoor/outdoor pool, shall be considered as commercial space.

Residential: Up to 900 square feet of residential space may be created per acre of land including up to 1.5 bedrooms per acre. Uses occurring inside a hotel/motel directly associated with renting of rooms including hotel/motel rooms, office, and associated hallways/corridors shall be considered as residential space.

2. Permanent Open Space is land that is restricted from development and deeded as dedicated open space within the District Open Space bonuses may be awarded for additional residential and commercial space and may include land previously considered in density calculations. The open space bonuses allow for an additional 1,150 square feet of development for each acre of land dedicated as open space to be distributed as follows:

Commercial: up to 250 sq.ft.

Residential: up to 900 sq.ft. Including up to 1.5 bedrooms

3. Building height shall not exceed thirty-five feet measured vertically from the median ground level to a point 2/3 between the eaves and ridge. A building height greater than thirty-five feet may be allowed by the Planning Board provided that the following criteria are satisfied:

- a. Buildings are not visible from a public road.
- b. The additional height is advantageous for a particular site
- c. The additional building height allows for larger quantities of open space.
- d. The New Ashford Fire Department finds that it has adequate ability to provide fire protection.

4. Building placement and clustering should be done in a manner that reflects the typical New England village environment, and whenever possible should blend into existing topography.

6. No building foundations shall be erected above the elevation of 1900 according to National Geologic Vertical Datum maps. Measurements will be taken from existing ground elevation. Exceptions to the above are ancillary buildings to chairlifts, snowmaking, cell sites, or windmill sites with buildings not to exceed 250 sq.ft. each.

F. PERMANENT OPEN SPACE

1. For the purpose of density calculations, permanent open space is defined as lands within the District that are restricted from development and shall be naturally vegetated areas, open fields and parks. Areas between ski trails may be considered open space, provided each plot constitutes 15 contiguous acres or more. Lands with use limitations to protect the drinking water source, such as Zone II or aquifer recharge areas, may be considered as open space. Where possible, proposed open space shall be linked to other open spaces to form green corridors and thither enhance existing linkages. Open space shall not be utilized for buildings, recreational uses such as skiing/skiing/tubing/snowboarding, recreational uses that require ground disturbance such as pools or tennis courts, streets, driveways, parking, rights-of-way, or utility easements. Setbacks, disconnected parcels less than one (1) contiguous acre and left over space including but not limited to areas between buildings, areas between ski/tubing runs, and buildings and parking lots, areas between parking lots and buildings, shall not be considered as open space.

2. Open space shall be put into a perpetual conservation restriction and recorded in the registry of deeds.

11.5.3 Public Hearing on Site Plan

Upon acceptance of the Resort Site Plan, the Planning Board shall within 65 days hold a public hearing.

11.5.4 Site Plan Approval/Denial

Within sixty (60) days of the completion of the hearing, the Planning Board shall determine by a majority of its members whether the Site Plan adequately meets the Site Development Guidelines and shall either approve or deny the Site Plan. The Site Plan must be approved by a majority vote by the Planning Board for the Special Permit to be executed