

**TOWN OF PLAINVILLE  
PROCEEDINGS OF THE SPECIAL TOWN MEETING**

November 15, 2021

A Special Town Meeting was called for Monday, November 15, 2021 at 6:30 P.M. to be held at the Beatrice H. Wood Elementary School, 72 Messenger Street, Plainville, MA.

A quorum was present with a total of 139 voters checked in for the evening. Town Moderator, Luke Travis, called the meeting to order at 6:30 P.M. The Moderator read the opening of the warrant. The warrant was posted and returned in the proper fashion.

The Pledge of Allegiance was led by the Moderator. Next, a tribute to Tina Baker, beloved second grade teacher at the Anna Ware Jackson School who recently passed away was made and a moment of silence was observed.

Introductions were made of the Town Clerk, Board of Selectmen, Town Administrator, Town Counsel and Finance Committee.

The Town Clerk swore in Maggie Clarke and Bruce Cates as counters for the meeting.

The Moderator gave notice of the emergency exits and procedures. He also gave the following information and instructions:

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- All registered voters should have checked in and received a voter card.
  - Counters will be used at the discretion of the Moderator or as moved by Town Meeting.
  - All speakers must be recognized by the Moderator, and are asked to line up to use the microphone, state name and address, limit comments to 3-5 minutes.
  - All motion, amendments, resolutions, and reports must be submitted in writing and handed to the Moderator. Forms are provided at the front of the hall.
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Motion by Brian Kelly, seconded by Jeffrey Johnson, the Board of Selectmen recommends and I so move that the following individuals, who are not registered voters of the Town of Plainville, be authorized to speak at this and subsequent sessions of the Special Town Meeting:

**James Floyd  
Melissa Campbell  
Brian Noble  
Jean Sarno  
David Jenkins  
Christopher Yarworth  
Paul Scott  
Dennis Morton  
Christine Higgins  
Deborah Revelle  
John Teiner**

**Police Chief  
Library Director  
Interim Town Administrator  
Finance Director  
Town Counsel  
Director of Planning & Development  
Director of Public Works  
Public Works  
Senior Center Director  
Health Director  
Parks Director**

**Majority required: Unanimous**

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**Article 1:** Motion by Jeffrey Johnson, seconded by Stanley Widak, Jr.  
I move that the Town appropriate \$2,257 from free cash to meet the obligations incurred in the prior fiscal year, pursuant to MGL Chapter 44 §64.

**9/10<sup>th</sup> vote required: Unanimous**

**Article 2:** Motion by Stanley Widak, Jr., seconded by Jeffrey Johnson  
I move that the Town affirm a positive, majority vote at the June 7, 2021 Annual Town Meeting, Article 13.

**Majority vote required: Unanimous**

**Warrant Article 2:**

**ARTICLE 2:** To see if the Town will affirm the intention of a vote of the Annual Town Meeting in June of 2021, Article 13, for the capital purchase of a “trailer mounted generator for the sewer pump stations, water well repairs and replacements, and testing and permitting for new groundwater supply and all related and incidental costs” in the amount of \$40,000 from Sewer Enterprise Retained Earnings and the sum of \$385,000 from the Water Enterprise Retained Earnings Fund or take any other action thereon or in relation thereto.

**Article 3:** Motion by Brian Kelly, seconded by Stanley Widak, Jr.  
I move that the Town transfer the sum of \$1,800,000 from Free Cash to General Stabilization.

**Majority vote required: Unanimous**

**Article 4:** Motion by Stanley Widak, Jr., seconded by Jeffrey Johnson  
I move Article 4 as written in the Warrant.

**Majority vote required: Unanimous**

**Warrant Article 4:**

**ARTICLE 4:** To see if the Town will vote to transfer the total sum of \$40,467 to Department 155 - Technology with \$14,842 from Department 122 - Select Board and \$25,625 from Department 492 - Building Maintenance, or take any other action thereon or in relation thereto.

**Article 5:** Motion by Jeffrey Johnson, seconded by Stanley Widak, Jr.  
I move that the Town transfer the sum of \$35,000 from Free Cash to Account number 01-132-5799 The Finance Committee Reserve Fund.

**Majority vote required: Unanimous**

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**Article 6:** Motion by Stanley Widak, Jr., seconded by Jeffrey Johnson  
I move that the Town transfer the sum of \$225,000 from the Gaming Stabilization Account to Debt Service Principal and Interest to be expended under the direction of the Treasurer-Collector.

**2/3<sup>rd</sup> Majority required: Unanimous**

**Article 7:** Motion by Brian Kelly, seconded by Jeffrey Johnson  
I move that the Town vote to rescind the unused borrowing authority, approved under 23 warrant articles since 2015 as outlined in this Article.

**Majority vote required: Unanimous**

**Warrant Article 7:**

**ARTICLE 7:** To see if the Town will vote to rescind the total sum of \$1,313,197 in authorized but unused borrowing authority approved under 23 warrant articles since 2015, as set forth below, as follows:

<b><i>Authorized and Unissued Debt</i></b>						
<b><i>Purpose</i></b>	<b><i>Date of Vote</i></b>	<b><i>Article #</i></b>	<b><i>Amount Authorized</i></b>	<b><i>- Issued - Retired - Rescinded</i></b>	<b><i>Rescind Amount</i></b>	<b><i>Rescind Reason</i></b>
Additional Salt Storage Shed	06/01/15	37	\$ 75,000	\$ 17,458	\$ 57,542	Abandoned
Engineering Services - DEP	06/05/17	22	50,000		50,000	Bond Structure
[2] Pickup Trucks	06/05/17	24	80,400	70,000	10,400	Pay down
Sewer System Rehab	06/05/17	26	100,000	98,000	2,000	Pay down
Replace Mirimichi Bridge	06/05/17	27	100,000	98,000	2,000	Pay down
Repair Senior Center Parking	06/05/17	28	50,000	47,000	3,000	Pay down
Tennis Courts / Town Park	06/05/17	29	50,000	47,000	3,000	Pay down
Police Portable Radios	06/05/17	30	38,000	30,000	8,000	Pay down
Jackson School Parking	06/05/17	31	60,000	56,000	4,000	Pay down
Jackson School Roof Repair	06/05/17	32	50,000	49,000	1,000	Pay down
Jackson School Playground	06/05/17	35	60,000	56,000	4,000	Pay down
Water Mains Replacement	06/05/17	36	598,500	590,000	8,500	Pay down
Front End Loader	06/04/18	16A	175,000		175,000	Bond Structure
Snow Tractor	06/04/18	16A	86,000		86,000	Bond Structure
Firefighter Turnout Gear	06/04/18	16A	132,000		132,000	Bond Structure
SCADA Sewer	06/04/18	16A	75,000	26,845	48,155	Bond Structure
Weatherization Imprv Jackson	06/03/19	12B	24,211	20,611	3,600	Grant Proceeds
Develop & Implement GIS	06/03/19	12C	150,000		150,000	Bond Structure
Feasibility of upgrades WTP	12/04/19	4	350,000	9,000	341,000	Bond Structure
Demo of Old Town Hall	12/04/19	5	115,000		115,000	Bond Structure
MV Replacement-2 Cruisers	12/04/19	10	97,000	63,000	34,000	Bond Structure
Scada System Upgrades & Improvements	07/13/20	14 S1	50,000		50,000	Bond Structure
Redirection of Sewer Flows E. Bacon	07/13/20	14 S3	25,000		25,000	Bond Structure
<b><i>Total</i></b>					<b><i>\$ 1,313,197</i></b>	

or take any other action thereon or in relation thereto.

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**Article 8:** Motion by Jeffrey Johnson, seconded by Stanley Widak, Jr.  
The Finance Committee unanimously recommends and I so move that the Town transfer the sum of \$202,800 from Free Cash to the Account or Accounts as outlined in this Article as presented at the direction of the Finance Director.

**Majority vote required: Motion Carried**

**Warrant Article 8:**

**ARTICLE 8:** To see if the Town will vote to transfer from available funds the sum or sums of money required to meet obligations for union and personnel contracts, including payment of the first fiscal year of the contracts between certain unions:

<b><i>General Fund - Free Cash</i></b>		
Municipal Office Employees (Union)	\$	15,000.00
Bylaw Hourly Employees (Non-Union)		8,230.00
Bylaw Salary (Non-Union)		28,400.00
DPW - Highway (Union)		7,500.00
School & Town Separation Contractual Payouts		86,370.00
School Supervisory Aides & Nursing Support (Covid)		18,300.00
Consulting Assistance		39,000.00
<b><i>TOTAL General Fund</i></b>	<b>\$</b>	<b><i>202,800.00</i></b>

or take any other action thereon or in relation thereto.

**Article 9:** Motion by Stan Widak, Jr., seconded by Jeffrey Johnson  
I move that the Town transfer the sum of \$7,500 from the Sewer Enterprise Retained Earnings to the appropriate compensation lines within the Enterprise Fund under the direction of the Finance Director.

**Majority vote required: Unanimous**

**Article 10:** Motion by Stanley Widak, Jr., seconded by Jeffrey Johnson  
I move that the Town transfer the sum of \$10,500 from the Water Enterprise Retained Earnings to the appropriate compensation lines within the Enterprise Fund under the direction of the Finance Director.

**Majority vote required: Unanimous**

**Article 11:** Motion by Jeffrey Johnson, seconded by Stanley Widak, Jr.  
The Finance Committee unanimously recommends and I so move that the Town approve Article 11 as printed in the Warrant and transfer the sum of \$250,000 from the Water Enterprise Retained Earnings for the purpose of purchasing a parcel of land located on Messenger Street, identified as Assessor's Map 6,

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Parcel 60, and described in a deed recorded with the Norfolk Registry of Deeds in Book 37801, Page 57 for a new Town water well and all associated costs of the purchase.

**2/3<sup>rd</sup>s Majority vote required: Declared Majority**

**Warrant Article 11:**

**ARTICLE 11:** To see if the Town will vote to authorize the Select Board to acquire by gift, purchase or eminent domain, the fee interest in a parcel of land located on Messenger Street, identified as Assessor's Map 6, Parcel 60, and described in a deed recorded with the Norfolk Registry of Deeds in Book 37801, Page 57 for a new Town water well; and, further to raise and appropriate, transfer or borrow the sum of \$250,000 to fund the acquisition of said land, and all related and incidental expenses; and, as funding therefor, to authorize the Town Treasurer, with the approval of the Select Board, to borrow said sum pursuant to G.L. c. 44, §§7 or 8 or any other enabling authority, and issue bonds and notes therefor; and, further, that any premium applied to the payment of the costs of issuance of such bonds or notes may be applied to the payment of costs approved by this vote in accordance with G.L. c. 44, §20, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or do or act in any manner relative, or take any other action thereon or in relation thereto.

**Article 12:** Motion by Brian Kelly, seconded by Jeffrey Johnson  
I move that the Town transfer the sum of \$243,475 from Free Cash to fund the capital budget and all incidental and related costs as put forth in Article 12 as presented.

**Majority vote required: Motion Carried**

**Warrant Article 12:**

**ARTICLE 12:** To see if the Town will vote to transfer from available funds, bond or otherwise provide the sums recommended, or any other sum of sums, for Capital Outlay for the Town Departments, as set forth in the following schedule, including all incidental and related costs, and determine whether such sums will be provided by transfer or borrowing:

Department	Item Description	Department Request	Finance Committee Recommends	Source of Funds
Assessors	Software	\$10,000	\$10,000	Free Cash
IT Director	Firewall, Anti-Virus, Email Upgrade	15,575	15,575	Free Cash
Police	Purchase and Equip Two Cruisers	130,000	130,000	Free Cash
Police	Internal Affairs Software	12,900	12,900	Free Cash
COA	Senior Center Roof Repairs	10,000	10,000	Free Cash
DPW	Street Sweeper Repair	25,000	25,000	Free Cash
DPW	Tree Removal Services	40,000	40,000	Free Cash
<b>Total</b>		<b>\$243,475</b>	<b>\$243,475</b>	

or take any other action thereon or in relation thereto.

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**Article 13:** Motion by Linn Loew Caprarella, seconded by Jeffrey Johnson  
I move that the Town transfer the sum of \$165,000 from Free Cash to fund the capital requests and all incidental and related costs as put forth in Article 13.

**Majority vote required: Motion Carried**

**Warrant Article 13:**

**ARTICLE 13:** To see if the Town will vote to transfer from available funds, bond or otherwise provide the sums recommended, or any other sum of sums, for Capital Outlay for the School Department, as set forth in the following schedule, including all incidental and related costs, and determine whether such sums will be provided by transfer or borrowing:

Item Description	Department Request	Finance Committee Recommends	Source of Funds
Replace Lighting & HVAC Systems	\$80,000	\$80,000	Free Cash
Green Communities Contribution Prior to Grant	50,000	50,000	Free Cash
Roof Replacement Main Entrance of Jackson School	20,000	20,000	Free Cash
Replace Energy Management System	15,000	15,000	Free Cash
<b>Total</b>	<b>\$165,000</b>	<b>\$165,000</b>	

or take any other action thereon or in relation thereto.

**Article 14:** Motion by Brian Kelly, seconded by Stanley Widak, Jr.  
I move that the Town transfer the sum of \$500,000 from Free Cash to fund the Pavement Management Program and compliance with the MS-4 including all incidental and related costs under the direction of the DPW Director.

**Majority vote required: Motion Carried**

**Article 15:** Motion by Jeffrey Johnson, seconded by Stanley Widak, Jr.  
The finance committee unanimously recommends and I so move that the Town transfer the sum of \$150,000 from Free Cash to fund building maintenance and labor costs required to maintain town buildings including all incidental and related costs.

**Majority vote required: Motion Carried**

**Article 16:** Motion by Dawn Denizkurt, seconded by Stanley Widak, Jr.  
I move Article 16 as written in the Warrant.

**2/3<sup>rds</sup> Majority required: Unanimous**

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**Warrant Article 16:**

**ARTICLE 16:** To see if the Town will vote to delete the Plainville Zoning Bylaw §500-40. Floodplain review and insert in place thereof the following:

**§ 500-40. Floodplain review.**

- A. Purpose. The purposes of the Floodplain District are to:
- 1) Ensure public safety through reducing the threats to life and personal injury
  - 2) Eliminate new hazards to emergency response officials
  - 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
  - 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
  - 5) Eliminate costs associated with the response and cleanup of flooding conditions
  - 6) Reduce damage to public and private property resulting from flooding waters
  - 7) Protect, preserve and maintain the water table and water recharge areas within the Town and to preserve present and potential water supplies for public health and safety.
- B. Floodplain Overlay District.  
The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Plainville designated as Zone A or AE on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District may be defined by the one-hundred-year base flood elevations shown on the FIRM, and further defined by the Norfolk County Flood Insurance Study (FIS) report, both dated July 6, 2021. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk and Planning Board.
- C. Use regulations.
- (1) The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
  - (2) No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms listed below and other applicable regulations.
    - (a) 780 CMR of the Massachusetts State Building Code, which addresses floodplain areas.
    - (b) 310 CMR 10.00, Wetlands Protection, Department of Environmental Protection (DEP).
    - (c) 310 CMR 13.00, Inland Wetlands Restriction, DEP.
    - (d) 310 CMR 15.00, Title 5, minimum requirements for the subsurface disposal of sanitary sewage, DEP.
    - (e) Any variances from the provisions and requirements of the above-referenced state regulations may only be granted in accordance with the required variance procedures of these regulations.
- D. Permits and Administrative Procedure.
- a. The Town of Plainville requires a Development Permit for all proposed construction, or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
  - b. The Planning Board, as the permit authority, may adopt rules relative to the issuance of development permits and file a copy with the Town Clerk.
  - c. All local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district must be acquired by the Applicant, who must submit a completed checklist demonstrating that all necessary permits have been acquired.
- E. Information requirements.  
Application for a development permit shall be made on forms furnished by the Planning Board and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage and location. Specifically required:
- (1) Locus plan;
  - (2) Existing and proposed buildings;

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- (3) Elevation in relation to mean sea level of the lowest floor (including basement or cellar) of all structures;
- (4) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (5) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in this article;
- (6) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- (7) Plans for any walls to be used to enclose space below the base flood level.

F. Review procedure.

At a properly posted Planning Board meeting, the Board shall examine and review the permit application to ensure the following concerns have been addressed:

- (1) Within the floodway no encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development as a result of compensating actions will not result in any increase in flood levels within the Town during the occurrence of a one-hundred-year flood in accordance with the Federal Emergency Management Agency's regulations for the National Flood Insurance Program.
- (2) Any encroachment in the floodway meeting the above standard must also comply with the floodplain requirements of the State Building Code.
- (3) The proposed use will not create increased flood hazards which shall be detrimental to the public health, safety and welfare.
- (4) The proposed use will comply in all respects to the provisions of the underlying district or districts within which the land is located.
- (5) The proposed use is in compliance with all applicable state and federal laws, including the Massachusetts Building Code and the Massachusetts Wetlands Protection Act (MGL c. 131, § 40).
- (6) Unnumbered A Zones. In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- (7) Floodway encroachment.
  - a. In Zones A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  - b. In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (8) When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- (9) Watercourse alterations. In a riverine situation, the Planning Board shall notify the following of any alteration or relocation of a watercourse:
  - a. Adjacent communities, especially upstream and downstream
  - b. Bordering States, if affected
  - c. NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation  
251 Causeway Street, Suite 600-700  
Boston, MA 02114-2104
  - d. NFIP Program Specialist  
Federal Emergency Management Agency, Region I  
99 High Street, 6th Floor  
Boston, MA 02110
- (10) All subdivision proposals, or other development proposals in the floodplain overlay district, shall be designed to assure that:
  - (a) Such proposals minimize flood damage;
  - (b) All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
  - (c) Adequate drainage is provided.
- (11) Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.



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- (12) Recreational vehicles. In A1-30, AH, AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements, or be on the site for less than 180 consecutive days, or be fully licensed and highway ready.
- G. Appeal. The Board of Appeals, as established by MGL c. 40A, shall hear and decide appeals in regards to determinations or decisions made by the Planning Board in the enforcement or administration of this section.
- H. Disclaimer of Liability. The degree of flood protection required by this bylaw is considered reasonable, but does not imply total flood protection.
- I. Severability. If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.
- J. Designation of Community Floodplain Administrator. The Town of Plainville hereby designates the position of Conservation Agent to be the official Floodplain Administrator for the Town.
- K. Requirement to submit new technical data. If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:  
FEMA Region I Risk Analysis Branch Chief  
99 High St., 6<sup>th</sup> floor, Boston, MA 02110  
and copy of notification to:  
Massachusetts NFIP State Coordinator  
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114
- L. Variances.
- (1) Variances to building code floodplain standards.
- a. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.
- b. Variances granted by the State Building Code Appeals Board under the state Building Code must also be independently approved by the Planning Board as part of its review of a project under this bylaw
- (2) Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP). A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:
- a. There is good and sufficient cause;
- b. A determination is made that there is good and sufficient cause for the granting of the variance, and that failure to grant the variance would result in exceptional non-financial hardship to the applicant;
- c. The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public;
- d. The variance shall not conflict with existing local bylaws and/or regulations; and
- e. The variance is the minimum action necessary to afford relief.
- (3) The Town shall issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.
- (4) The Town shall maintain a record of all variance actions for the referenced project. The documentation shall include the variance request; determinations made by the entity granting the request that the three criterion listed above have been met; a copy of the letter to the property owner regarding possible insurance premium impacts; and that all appropriate flood protection and hazard mitigation measures were taken where applicable and possible.
- (5) All variances issued for Section 500-40 shall be granted by the Planning Board as part of its review of a project under this bylaw.
- M. Definitions.
- DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

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**FLOODWAY.** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or

- (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

**RECREATIONAL VEHICLE** means a vehicle which is:

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

[US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY** - see FLOODWAY.

**SPECIAL FLOOD HAZARD AREA.** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**START OF CONSTRUCTION.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

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STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

**ZONES, FLOOD:**

ZONE A means an area of special flood hazard without water surface elevations determined

ZONE A1-30 and ZONE AE means area of special flood hazard with water surface elevations determined

ZONE AH means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined

ZONE AO means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (*Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.*)

ZONE A99 means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

ZONES B, C, AND X means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or,

or take any other action thereon or in relation thereto.

**Article 17:** Motion by Dawn Denizkurt, seconded by Stanley Widak, Jr.  
I move Article 17 as written in the Warrant.

**2/3<sup>rd</sup> Majority vote required: Unanimous**

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**Warrant Article 17:**

**ARTICLE 17:** To see if the Town will vote to amend the Plainville Zoning Bylaw **§500-26. Town Center District** by deleting the ~~strike-through~~ text and inserting the **bold** text, as follows:

***§500-26 Town Center District (TCD).***

- A. Scope. To regulate development within the Town Center District, and to protect the public health, safety, and general welfare in the Town of Plainville by establishing controls that will facilitate development while protecting the public interest, setting limits on the density and amount of each use while permitting flexible development.
- B. Purpose. The purposes of the Town Center District are to encourage redevelopment and infill development in the Town Center area in a manner that protects and enhances the value of land and buildings and provides for a variety of business and residential uses; and toward these ends, to establish distinctive dimensional and design standards that reinforce and foster aesthetic and functional improvements to the Town Center. The intent, furthermore, is to encourage interaction among activities located within the area, to enhance business vitality, reduce vehicular traffic, provide employment opportunities for residents close to home, ensure the compatibility with each other of the commercial and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located.
- C. Approving authority. The Planning Board shall act as the approving authority and special permit granting authority (SPGA) for applications submitted under this section of the Zoning Bylaw and may adopt and from time to time amend reasonable regulations for the administration of this bylaw. The regulations shall contain detailed requirements governing applications for review, which shall include, but need not be limited to, the following:
  - (1) The content of plans;
  - (2) The designation of proposed building locations showing setbacks from property lines;
  - (3) Proposed building elevations;
  - (4) The designation of existing structures located within 100 feet of all property lines;
  - (5) Location and design characteristics of proposed roads, lighting, facilities for pedestrian movement, driveways, and parking areas;
  - (6) Existing and proposed site grades with contour elevations in two-foot increments;
  - (7) Identification of wetlands affected by or adjoining the proposed project;
  - (8) Utility service to the proposed project and drainage plans and calculations;
  - (9) Traffic studies relating to the proposed project;
  - (10) Landscaping and screening plans for the proposed project including trees to be removed and retained;
  - (11) Loading and unloading facilities;
  - (12) Provisions of refuse removal;
  - (13) Earth removal regulation; and

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- (14) Other information as may be necessary to determine compliance with the provisions of this bylaw.
- D. General requirements and applicability. All land located within the Town Center District shall be subject to the use restrictions or prohibitions as identified in § 500-26E, Use regulations, below. Commercial or residential uses not specifically permitted in these schedules may be allowed only by special permit issued by the SPGA. Proposed uses that require special permit approval in the TC District are not required to obtain the special permits described in **§500-36 (Groundwater Protection District)**, § 500-37 (Community and water resource protection), § 500-40 (Floodplain review), § 500-21 (Earth removal) and § 500-34 (Earth removal regulations). However, where they are applicable, the purpose and use regulations of those sections shall be met by proposed TC developments, and the review procedures shall be incorporated by the Planning Board into their review of TC proposals.
- E. Use regulations. To promote a mixture of uses to reduce vehicle trips, such that residents and area employees can walk to needed services and amenities, and to conversely provide a built-in demand for the local commercial and retail uses:
- (1) Preferred uses permitted as-of-right in mixed use development or mixed use infill. The following uses are preferred and may be developed as-of-right, subject to the performance and development standards of § 500-26G herein.
- (a) Single-family, **or** two-family residential uses located on second or third floors only. **Single-family or two-family uses that are legally permitted and/or grandfathered in the TCD zone as of 11/15/2021 are permitted uses, and buildings with those uses may be expanded by right, subject to the dimensional setbacks of the TCD, even if the residential use is on the first floor.**
- (b) Commercial uses. A building or buildings complying with the dimensional regulations set forth in § 500-26F(2) and containing one or more of the following uses on the first or second floors only:
- [1] Retail store for the sale of food, drug and proprietary goods, up to a maximum of 7,500 square feet of net floor area for an individual retail establishment;
  - [2] Restaurant or other place serving food, where food service is located entirely within the building or on a patio or outdoor seating area operated in connection with an indoor-service restaurant, up to a maximum of 3,500 square feet of net floor area for an individual restaurant establishment;
  - [3] Bakery, deli, coffee shop, ice cream shop, sandwich shop, or similar establishment in which all or a majority of the food service is food to be consumed off the premises, but not including drive-through food service;
  - [4] Business or professional office;
  - [5] Post office;
  - [6] Governmental services;
  - [7] Personal service, such as a beauty salon or barbershop, which includes the sale of related goods; or dressmaking, dry-cleaning and pressing or tailor shop where no work is done on the premises for retail outlets elsewhere. No dry cleaning to be done on premises;
  - [8] Laundromat;
  - [9] Inn or bed-and-breakfast facility;
  - [10] Bank, including manned or automated drive-up facilities that are attached to the rear or side of a full-service banking office with no vehicles permitted to queue on the street;

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- [11] Automated teller machine (ATM), not attached to a full-service banking office, provided that public access is available only from within a building and is operated as incidental to other uses in the same building;
  - [12] Printing or copying shop;
  - [13] Repair shop, such as shoe repair, appliance or electronic repair, jewelry repair, with a maximum gross floor area of 1,000 square feet;
  - [14] Business or professional offices, artist studios and galleries;
  - [15] Religious uses; or
  - [16] Funeral home.
- (c) Vertical mixed use development, each use complying with the above standards.
- (d) Accessory uses incidental to a permitted use.
- (e) Uses exempt under M.G.L. c. 40A, sec. 3.
- (2) Uses that require special permit approval in mixed use development or mixed use infill. The following uses may be allowed by special permit:
- (a) For any permitted commercial retail first floor use subject to a maximum net floor area requirement under Subsection E(1) above, the Planning Board may grant a special permit to authorize an increase in net floor area, provided that no restaurant shall exceed 6,500 square feet and no individual retail establishment shall exceed 18,000 square feet.
  - (b) Structures to contain three or more residential dwelling units, provided that:
    - [1] Residential units shall be located on the second or third floors;
    - [2] The maximum coverage of the lot by buildings and structures shall be 45% of the total lot area and the minimum landscaped area shall not be less than 25% of the lot area;. **A reduction of the minimum landscaped area may be approved by special permit from the Planning Board after a review of the proposed neighborhood impacts, site landscaping and site layout;**
    - [3] ~~No portion of any enclosing wall of any building and no portion of any permissible structure shall be farther from the street line of an existing public or private way than 15 feet nor nearer to the side lot line than 15 feet nor nearer to the rear lot line than 30 feet;~~
    - [4] No building in a group shall be closer to any other building on the lot, or **a building on an adjacent lot, than a distance of 30 feet; unless otherwise approved by special permit from the Planning Board after a review of public safety impacts;**
    - [5] There shall be provided a permanent off-street parking area, indoors and/or outdoors; **at the rear of the building sufficient in size to allow two parking spaces for each dwelling unit to be accommodated, unless otherwise permitted under § 500-31C; or unless otherwise approved by special permit from the Planning Board after a review of the site plan, parking, layout, impact on abutting properties, and site aesthetics impacting the overall TCD; and**
    - [6] Elevations and floor plans shall be submitted in addition to all other requirements for a site plan as provided in § 500-39, Site plan review. **The TCD allows denser development than in the**

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remainder of the Town, and the Board shall review the architectural plans to ensure compliance with the intent of the TCD, which is further detailed in §500-26(B) and §500-26(G)(3)(f)(1) and (2); and

- [7] Residential units, including accessory residential uses, may be permitted on the first floor, provided that the building closest to the street contains a space large enough for viable commercial usage on that portion of the building containing a length equal to at least 30% of the lot frontage, or 24 feet, whichever is greater. Corner lots need only comply with this requirement on one of the street frontages.
- (c) Remodeling an existing dwelling or structure accessory to an existing dwelling to accommodate one additional dwelling unit, provided that:
- [1] The building was in existence on January 1, 1965;
  - [2] The lot is in compliance with § 500-26F, Density and dimensional regulations, of this bylaw;
  - [3] No more than 45% of the lot area is covered by structures;
  - [4] There is at least one off-street parking space for each dwelling unit contained in the structure;
  - [5] Outside storage areas shall be screened by fencing or landscaping;
  - [6] The principal structure to be converted shall contain at least 2,500 square feet;
  - [7] No unit shall have a gross floor area of less than 350 square feet plus 100 square feet for each bedroom in excess of one;
  - [8] The gross floor area of the newly created unit(s) shall be less than 50% of the total gross floor area of the principal dwelling unit, after conversion;
  - [9] The exterior appearance of the structure shall not be altered except for stairways and exits required by law;
  - [10] One unit shall be occupied by the owner of the property, or, in the case of a realty trust, corporation or partnership, a beneficiary, shareholder or partner, respectively; and
  - [11] If the second unit is discontinued and integrated into the original structure design, the owner shall notify the Inspector of Buildings in writing.
- (d) Drive-through service for a commercial establishment such as a pharmacy, located in the rear or side of the building, but not a drive-through bakery or food service establishment.
- (e) Recreational, social, or cultural facilities such as theaters, playhouses, band shells, outdoor pavilions, museums and community centers.
- (f) Undertaking establishment.
- (g) Other commercial or residential uses as may be permitted by the SPGA.
- (3) Prohibited uses:
- (a) Adult entertainment uses.

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- (4) Same-structure/on-site mixed use. To promote the mixture of uses to reduce vehicle trips, such that residents and area employees can walk to needed services and amenities, and to conversely provide a built-in demand for the local commercial and retail uses:
  - (a) Within the district there shall be no restriction on combining different categories of use within the same building except any imposed by the State Building Code or other federal, state, or local regulations.
  - (b) Uses must follow the performance and development standards of § 500-26G.
- F. Density and dimensional regulations. To promote increased density where utility and transportation infrastructure already exist, to better accommodate future growth and the clustering of buildings and mixing of uses in exchange for some portion of land to be set aside as public area or green space.
  - (1) Densities.
    - (a) Residential or mixed use developments within this district shall provide dwelling units at the following minimum and maximum levels of density:
      - [1] For single-family residential (including accessory apartments): at least two dwelling units per acre of developable land;
      - [2] For two-family and/or three-family residential: at least four dwelling units per acre of developable land;
      - [3] For multifamily residential: at least four dwelling units per acre of developable land.
    - (b) Where a development project involves an entire block or multiple contiguous blocks, minimum densities shall be calculated on the development of the area as a whole.
  - (2) Dimensional regulations. To produce variety and visual interest in site planning, developers are encouraged to provide a range of lot sizes, frontage widths, setbacks, and heights, within these parameters:
    - (a) Minimum lot area: 5,000 square feet.
    - (b) Minimum lot frontage: 60 feet.
    - (c) Building height.
      - [1] Minimum for all uses: 1.5 stories (18 feet).
      - [2] Maximum for by right uses [§ 500-26E(1)]: two stories (24 feet).
      - [3] Maximum for uses requiring special permit [§ 500-26E(2)]: three stories (36 feet).
    - (d) Minimum setbacks.
      - [1] Front yard: one- to two-story buildings: three feet to five feet; three-story buildings: eight feet.
      - [2] Side yard, all uses: zero feet.
      - [3] Rear yard, all uses: 20 feet as buffer for parking; 30 feet when abutting residential zone.
    - (e) Maximum setbacks.



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- [1] Front yard, all uses: 15 feet, **unless a greater setback is allowed via special permit.**
- (f) Maximum building coverage.
  - [1] Residential: 45% of lot area.
  - [2] Business/mixed use: N/A.
- (g) Maximum ~~building~~ lot coverage. **(Lot coverage includes buildings, parking, sidewalks and other similar non-landscaped areas)**
  - [1] Residential: 75%.
  - [2] Business/mixed use: 75%, **unless otherwise approved by special permit from the Planning Board.**
- ~~(h) Modified setback, maximum/minimum requirements.~~
  - ~~[1] Within the Town Center District front, side and rear setbacks shall be a maximum of no more than the average setbacks of the three adjacent buildings to each side and to the rear, as well as an equivalent number across any contiguous roadway.~~
  - ~~[2] Frontage requirements shall reflect those of the lots as they exist at the time of adoption of this bylaw.~~
- (3) Notes for dimensional regulations.
  - (a) Building height. Height shall be measured from grade to the cornice line of the roof. Accessory rooftop elements shall not be included in the calculation of height, but shall be restricted as to their location on the roof and may need to be screened so as to limit their visual impact. Ells, sunrooms and enclosed porches, and other similar construction attached to the main structure, as well as accessory structures in side or rear yards, are permitted to be only one story in height.
  - (b) Front yard setbacks. Front yard setbacks shall be measured from the street frontage line to the primary facade, excluding front steps or stoops, porches, bay windows, enclosed main entrances, or other projecting elements. (Note, however, that no projecting element on any building may extend over a property line to intrude onto a public sidewalk.) Where a commercial or mixed use building is located at an intersection and may be considered to have more than one primary facade, then each primary facade may utilize a front yard setback.
  - (c) Side yard setbacks. The fifteen-foot minimum side yard setback may only be applied to detached residential buildings with three or fewer units, and is intended to encourage the off-center siting of a house within its lot, resulting in substantial outdoor space where a porch and/or landscaped yard may be provided (in addition to a driveway); and also resulting in a visually varied streetscape. The fifteen-foot minimum side yard setback applies to units that share party walls, as well as multifamily dwellings. Side yards are not required for mixed use and commercial buildings to allow for sharing of party walls.
- G. Performance and development standards. For the enhancement and improvement of existing properties and/or structures relative to pedestrian access, vehicular circulation, and signage as well as to guide future development and re-use proposals that reflect the features of the neighborhood, the following standards shall be followed in the development or re-use proposals within the Town Center District:
  - (1) Performance standards. No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes odor, noise, vibration or excessive light under standards set forth in the performance criteria in this bylaw. Any other performance standards of the Town shall apply to the Town Center in addition to these.

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(a) Access and traffic impacts.

- [1] Traffic and safety impacts to the existing and proposed roads shall be minimized.
- [2] Access shall be provided to the extent feasible through an existing side street or a shared driveway; curb cuts shall be limited.
- [3] Pedestrian and vehicular traffic shall be separated; walkways shall be provided for access to adjacent properties and between businesses.

(b) Noise.

- [1] Residential units shall be constructed so that interior noise levels do not exceed Massachusetts Code of Regulations 310 CMR 7.10. A noise source will be considered to be violating the regulation if the source increases the broadband sound level by more than 10 dB(A) above ambient, or produces a "pure tone" condition — when any octave band center frequency sound pressure level exceeds the two adjacent center frequency sound pressure levels by three decibels or more. These criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time, measured during equipment operating hours. "Ambient" may also be established by other means determined by the Town of Plainville.
- [2] No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 7:00 p.m. of one day and 7:00 a.m. of the following day.
- [3] Common walls between residential and nonresidential uses shall be constructed to minimize the transmission of noise and vibration.
- [4] Residential buildings to be constructed or rehabilitated shall be designed to filter out noise through construction employing, but not limited to, such techniques as applying soundproofing material.

(c) Vibration, smoke, heat, glare, and odor.

- [1] Vibration shall not be discernible to any human's sense of feeling for three minutes in any one hour for a total of 15 minutes in any one day, or producing an acceleration of more than 0.1 G.
- [2] Smoke shall not be visible beyond a shade darker than No. 1 on the Ringlemann Smoke Chart. Heat and glare shall not be discernible from the outside of any structure.
- [3] Odor, dust, and fumes shall be effectively confined to the premises or so disposed as to avoid air pollution.

(d) Lighting.

- [1] All outdoor lighting shall be designed so as not to adversely impact surrounding uses, while also providing a sufficient level of illumination for access and security purposes. Such lighting shall not blink, flash, oscillate or be of unusually high intensity of brightness.
- [2] Parking areas shall be illuminated to provide appropriate visibility and security during hours of darkness and comply with § 500-31G, Minimum illumination.
- [3] Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries, and shall be directed toward the object to be illuminated. Light shall be directed away from residences.

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- (e) Storage.
  - [1] All materials, supplies and equipment shall be stored in accordance with fire prevention standards of the National Board of Fire Underwriters and shall be screened from view from public ways and abutting properties.
  - [2] Storage facilities shall be located greater than 10 feet from the property line.
- (f) Waste disposal.
  - [1] Waste disposal shall follow State Board of Health regulations or any other applicable regulations.
  - [2] Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties.
  - [3] Appropriate provisions shall be made for the disposal of trash, which may include, but shall not be limited to, the provision of trash compactors within the building or on site, as well as a submission of a signed annual contract for rubbish removal.
- (g) Loading/unloading. The SPGA may require that operations, including loading and unloading, shall be limited to weekdays between the hours of 8:00 a.m. and 7:00 p.m. only.
- (h) Walkways.
  - [1] For public convenience a pedestrian and/or bicycle way shall connect various uses and otherwise provide appropriate circulation or continuity to an existing pedestrian or bicycle circulation system. These uses include, but are not limited to residential, parking, transit, bicycling, industrial, recreation, and commercial.
  - [2] Walkways must conform to requirements of the American with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB).
    - (i) Vehicular access, parking and loading, and shared parking requirements. See § 500-31, Parking requirements, and § 500-32. Loading requirements, for the required parking and loading spaces and design criteria. To encourage parking areas that are subordinated in relation to buildings, landscaping, and pedestrian access, the following criteria shall also pertain to this Town Center District:
      - [1] Parking shall be located to the side or rear of buildings, **unless otherwise approved by special permit from the Planning Board**. In no case shall parking be allowed in the planting strip adjacent to the sidewalk or within the front setback of any lot.
      - [2] Parking spaces may be located either on or off the lot except as otherwise provided by § 500-31C. If spaces are off site, they must be within walkable distance to the site, within 1/4 mile. Applicant must show proof of space, its location to the structure and indicate if the space is owned or leased.
      - [3] In the event of a conflict between the requirements for parking of this § 500-26 and §§ 500-31 and 500-32, the requirements of this § 500-26 shall control.
- (2) Parking standards. In addition to site plan review guidelines for parking within the Town Center District, the following criteria shall be considered:

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- (a) Parking areas shall be located to the side and rear of the structure, **unless otherwise approved by special permit from the Planning Board**. No parking area shall be designed such that parking is within the required or authorized front yard setback.
  - (b) Parking areas of adjacent lots shall have reasonable and convenient off-street vehicular connections. Where adjacent property has not been developed, provisions shall be made for future off-street connections with adjacent properties. Reserved strips of land to preclude such connections shall be prohibited.
  - (c) If a new use cannot meet minimum off-street parking requirements, then the SPGA may require, as part of a special permit, the payment of a fee by the applicant to allow the Town to provide such additional required off-street parking in lieu of the applicant providing required off-street parking. Such provision may include the planned future acquisition of Town-owned or -leased property for public parking.
  - (d) If an existing use is changed in such a way that: (1) a change of use of all or any portion of a building or structure from a use of one parking class to a use of another parking class; or (2) an interior increase of floor area for which off-street parking must be provided and such required off street parking cannot be provided because of the nonavailability of space in the zoning lot upon which such building or structure is located, then the SPGA may require, as part of a special permit, the payment of a fee by the applicant to allow the Town to provide such additional required off-street parking in lieu of the applicant providing required off-street parking.
  - (e) Payment made to the Town of Plainville in lieu of providing some or all of the required off-street parking spaces for a project in the Town Center District shall be allowed by right. The fee to be paid shall be \$2,000 per parking space. Fees paid to the Town of Plainville, in lieu of providing required parking spaces on-site, shall be used solely for expenses (including but not limited to land acquisition, design/engineering services, and construction costs, but not maintenance costs) related to adding parking spaces, improving the utilization of existing parking spaces, or reducing the need for new parking to serve the Town Center District. Requests to appropriate funds shall be filed with the Select Board and referred to the SPGA and the Plainville Redevelopment Authority, which shall have 60 days to forward their comments and recommendations before a Select Board vote of the appropriation is taken.
- (3) Development standards. New construction and new construction design shall follow the typical New England character. Buildings or structures that are listed or eligible for inclusion on the National Register of Historic Places and/or the Massachusetts Register of Historic Places or within a local historic district as established by MGL c. 40C shall be converted, constructed, reconstructed, restored or altered to maintain or promote the status of the building or structure on, or eligibility for inclusion on, the State or National Register of Historic Places.
- (a) Lighting.
    - [1] Lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation. The glare from the installation of outdoor lights and illuminated signs shall be contained on the property and shall be shielded from abutting properties. Lighting structures shall be integrated with the site and surrounding uses.
    - [2] An exterior lighting plan is required including the following items plus any additional information required by the Planning Board if needed to determine compliance with these provisions:
      - [a] A lighting plan showing existing and proposed exterior lighting, including building and ground lighting; locations, supports, mounting heights, and orientation of all luminaries.
      - [b] For all luminaries, descriptions and diagrams of physical configuration and photometric data, such as those available from manufacturers indicating fixtures, lamps, reflectors and filters and showing the angle of light cup-off and light distribution patterns.

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- [c] All parking areas and pedestrian facilities serving nonresidential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn that those facilities are open to the general public. Some illumination shall provide not less than 0.2 average maintained horizontal footcandles, and an illumination ratio (brightest/darkest) of not more than 4:1. However, the Planning Board may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is not necessary or appropriate for the protection of the public safety.
  - [d] To avoid lighting impacts, outdoor lighting fixtures shall be mounted no higher than 15 feet, directed inward to the extent feasible, or otherwise oriented and shielded to avoid glare on adjoining premises and plantings or other screening used to block headlight glare from drives and parking lots onto adjacent properties or roadways.
- (b) Signs. Signs in the Town Center District shall be permitted as follows:
- [1] Signs within the Town Center District associated with residential uses shall conform to § 500-29C(1), Signs in residential districts.
  - [2] Signs within the Town Center District for commercial uses shall conform to the following:
    - [a] For mixed use and nonresidential buildings set directly on the front and/or side property lines, signs may be located within 10 feet from the street right-of-way, provided that no sign shall project horizontally more than two feet over the public sidewalk (maximum 10 square feet in area).
    - [b] Signs should have simple geometric shapes, with two or three colors that complement the colors of the building. All signage shall be installed so as not to obscure or damage architectural features such as windows and trim elements. Wall signs and projecting signs are preferred types. Signage may also be provided on an awning or canopy, provided that in buildings with multiple businesses, awnings or canopies are standardized by type, size, materials, color, illumination, and method of installation across the facade. Standard corporate protocols relating to types, materials, sizes, colors and illumination of signage may be accommodated to the extent that they complement, rather than undermine, the village character of this district.
    - [c] Exterior illumination for signage is permitted, using gooseneck lamps or other decorative fixtures that are focused downward onto a sign. Internally illuminated or signs with plastic faces and neon signs and flat-screen LED-type signs are not permitted.
    - [d] Common directory signs for multiple businesses within the same building may be provided as wall signs attached to the building at or adjacent to the main entrance (maximum six square feet in area).
    - [e] Wayfinder signs, oriented to pedestrians, may be situated at certain locations that function as gateway access points into and within this district to identify the locations of individual businesses and other points of public interest along a street. Wayfinder signs shall be no taller than six feet, may provide information on up to four faces, and may be illuminated as described above; design and materials should complement surrounding development. Entrance signs such as may typically be installed at a business or industrial subdivision and oriented to drivers are discouraged.
- (c) Landscaping requirements.
- [1] Screening of mechanical equipment, trash, and loading areas shall be provided through the use of walls, fences, and/or dense, evergreen plant materials.

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- [2] In addition to the parking area landscaping required in § 500-31F, Landscaping, the following shall pertain to parking areas in the Town Center District:
  - [a] Parking areas shall be screened from adjacent residential uses, streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the American Standard for Nursery Stock, American Standards Institute, Inc., 230 Southern Building, Washington, DC 20005, and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.
  - [b] The landscaped perimeter area shall be at least five feet wide.
  - [c] Landscaping shall be provided for interior vehicular use areas to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular traffic.
  - [d] The interior parking area shall be landscaped with sufficient shade trees to provide 50% shade within 15 years of installation.
  - [e] The use of porous pavement and/or perforated brick or block shall be used to the extent feasible to increase on-site water retention for plant material, groundwater supplies, and to reduce problems associated with runoff.
  - [f] Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six months from the time of project completion.
- (d) Maintenance of landscaping and screening.
  - [1] The property owner or applicant to the SPGA shall maintain all landscaping and screening.
  - [2] Landscaping and screening plant materials shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic.
    - [a] Shrubs or trees that die shall be replaced within one growing season.
    - [b] If the property owner fails to do so, the Town reserves the right to maintain the landscaping and screening after notifying the owners, agents, renters, or lessees by certified mail at their last known address or at the subject property address, that it shall be removed or trimmed within seven days of the notice by the Building Inspector/Zoning Enforcement Officer.
    - [c] The Town shall assess the owners, agents, renters, or lessees for the cost of trimming or removal plus an additional amount of up to 20% of the charges for administrative costs, to the owner and to the lessee, agent, occupant, or other person in possession and control of the property.
    - [d] If any property owner fails or refuses to pay when due any charge imposed under this subsection, the Building Inspector/Zoning Enforcement Officer may, in addition to taking other collection remedies, certify due and unpaid charges, including interest, to the Town Treasurer to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected as provided by the Town.
- (e) Affordable housing bonus. To promote the provision of opportunities for the development of affordable housing:
  - [1] At least 10% of the total dwelling units in a building shall be designated as affordable housing.

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- [2] The affordable housing units shall include resale, lease or rental controls that will ensure continued affordability by future low- and moderate-income households. Deed restrictions or similar devices shall be used to limit future sale or rental prices for these purposes.
  - [3] The affordable units may be located in an existing structure if their construction constitutes a net increase in the number of dwelling units in the structure.
  - [4] The affordable units may be located on some other development tract within the Town Center District through a special permit from the special permitting granting authority. The receiving property shall not have more than 20% affordable housing in total as a result.
- (f) Appearance/architectural design.
- [1] Variation in detail, form and siting shall be used to provide visual interest and avoid monotony among buildings on each site and among abutting properties including those properties directly across a street or right-of-way. **When reviewing the layout and density of proposed developments, the Board shall take into consideration the mitigation of visual impacts that may be created by the architectural design of the proposed building(s), the site layout and proposed landscaping, and how well the overall project complies with the purposes of the TCD as outlined in §500-26(B).**
  - [2] Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings.
- (g) Earth removal. The Town Center District shall be subject to the provisions of § 500-34, and the SPGA shall issue a special permit for any earth removal within the TCD which exceeds 350 square yards.
- H. Special permit. The Planning Board shall approve, approve with conditions, or deny an application for a special permit submitted on a form specified by the SPGA after considering whether the project meets the criterion below:
- (1) Minimize the volume of cut and fill, the number of removed trees six inches caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
  - (2) Maximize pedestrian and vehicular safety both on the site and egressing from it;
  - (3) Minimize obstruction of scenic views from publicly accessible locations;
  - (4) Minimize visual intrusion by controlling the visibility of parking, storage, HVAC or other outdoor service areas viewed from public ways or premises residentially used or zoned;
  - (5) Minimize glare from headlights and lighting intrusion and light overspill into the night sky;
  - (6) Provide adequate access to each structure for fire and other emergency service equipment;
  - (7) Provide adequate stormwater management consistent with the functional design standards in the Planning Board's Subdivision Rules and Regulations;
  - (8) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places; and
  - (9) Minimize contamination of groundwater from on-site wastewater disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances.

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- (10) Application and its supporting narrative documentation complies with all sections of this Zoning Bylaw.
- (11) Application is accompanied by the fees specified by the SPGA as approved by the Town of Plainville.
- I. Issuance of occupancy permits. The Building Inspector may not issue an occupancy permit to the applicant without prior receipt of evidence that the use restriction or regulatory agreement has been recorded at the Norfolk County Registry of Deeds and that the low- and moderate-income units have been approved for listing on the Chapter 40B Subsidized Housing Inventory by the Department of Housing and Community Development.
- J. Relation to other requirements. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Bylaw.
- K. Appeals. Any person aggrieved by a decision of the Planning Board under this bylaw may appeal said decision in accordance with MGL c. 40A, § 17.

And further, that nonsubstantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville, or take any other action thereon or in relation thereto.

**Article 18:** Motion by Brian Kelly, seconded by Stanley Widak, Jr.  
The Select Board recommends, and I so move to adopt the change to the Zoning Bylaw as written in the Warrant.

**2/3<sup>ds</sup> Majority vote required: Yes: 57, No: 64 -Motion Failed**

**Warrant Article 18:**

**ARTICLE 18:** To see if the Town will vote to amend the Plainville General Code **§500 Attachment 2 “Town of Plainville Use Regulation Schedule (§500-19 of the Zoning Bylaw)”**, particularly the row entitled “Medical Marijuana & Marijuana Establishments”, by deleting the ~~strike-through~~ text and inserting the **bold** text, as follows:

	RA	RB	RC	RD	CA	CB	CC	CD	IA <sup>15</sup>	IB	IC	TCD <sup>16</sup>	TCD <sup>17</sup>
Medical Marijuana & Marijuana Establishments	O	O	O	O	O	A <sup>21</sup>	O	O	A	<del>OA</del> <sup>21</sup>	O	O	O

And further, to amend footnote #21 under “Explanation of coded numbers appearing in the schedule above:” by inserting the **bold** new text:

21. Medical Marijuana & Marijuana Establishments are allowed in the CB district only to the north of Route 106 along Route 1. **In the IB zone, a building used by a Craft Marijuana Cultivator Cooperative, a Marijuana Cultivator, or a Marijuana Product Manufacturer shall be a minimum of 750 feet from the nearest residential building that is located in a residential zoning district, and be no taller than 45 feet in height. Marijuana uses in the IB zone along Taunton Street are not allowed.**



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And further, that non-substantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Code of Plainville or, or take any other action thereon or in relation thereto.

The Moderator entertained a motion by Jeffrey Johnson, seconded by Stanley Widak, Jr., to dissolve the Special Town Meeting at 8:43 P.M.

**Majority required: Unanimous**

Respectfully submitted,

Ellen M. Robertson, CMC/CMMC  
Town Clerk