

# PLYMOUTH ZONING ORDINANCE

Final Version

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# **1 GENERAL PROVISIONS**

## **1.1 ENACTMENT**

Whereas the Town of Plymouth, Vermont has created a Planning Commission and has adopted and has in effect a plan under the Vermont Municipal and Regional Planning and Development Act, 24 V.S.A. Chapter 117, herein referred to as the Act, there is hereby established a Zoning Ordinance for the Town of Plymouth. In order to administer this Ordinance there is also hereby established a Zoning Administrator per Section 4448 of the Act, and a Zoning Board of Adjustment per Section 4460 of the Act, in addition to the Planning Commission.

## **1.2 TITLE**

This Ordinance shall be known and cited as the Plymouth Zoning Ordinance.

## **1.3 PURPOSE**

It is the purpose of this Ordinance to implement the Plymouth Town Plan by providing for the appropriate use of all lands in the Town of Plymouth in a manner which will promote and protect the public health, safety, prosperity, comfort, convenience, efficiency, and general welfare; to protect high elevations, steep slopes, soils, forests, shorelands, wetlands and other natural resources; to encourage the density and distribution of settlement to be in character with the rural residential environment of the town; and to further the purposes set forth in Section 4302 of the Act.

## **1.4 EFFECTIVE DATE**

This Ordinance or any amendments thereto, shall become effective 21 days after adoption by the Selectboard, or immediately upon its adoption at a regular or special Town meeting if called for as under Section 4442 of the Act.

## **1.5 PRECEDENCE**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance legally imposes a greater restriction with respect to the use of a structure or land than may be allowed by other local, state or federal permits, the provisions of this Ordinance shall control.

## **1.6 SEVERABILITY**

If any portion of this ordinance is held unconstitutional or invalid by a competent court, the remainder of this ordinance shall not be affected.

## **1.7 STATUS OF PRIOR ORDINANCE**

Upon the effective date of this Ordinance, the Plymouth Zoning Ordinance is hereby amended in its entirety.

## **1.8 PRIOR DEVELOPMENT**

A permit or approval shall not be required for any development which has lawfully begun, received a permit, or within which a use has been lawfully established, prior to the adoption

of this Ordinance, provided that the construction is substantially completed for its intended use within the expiration date of any permit, or if none, two years from the date of adoption of this Ordinance. In the case of subdivision, a subdivision which is lawfully in existence, has lawfully filed a plat prior to adoption of this Regulation, or which has received a permit or approval from the Town or a state subdivision permit shall be considered as prior development and shall not require a new permit unless such previous approvals expire.

## **1.9 USES EXEMPT FROM THIS ORDINANCE**

The following development outside of the FH Overlay District (Special Flood Hazard and River Corridor Protection Areas) is exempt under this Ordinance, and accordingly, Zoning Permits shall not be required for the following:

- 1.9.1** Normal maintenance and repair of an existing building or structure that does not result in any change to the footprint or height of a building or structure, or change in use;
- 1.9.2** Superficial changes to the exterior of a structure, unless the exterior is regulated under an existing permit or the structure is in the Coolidge Historic Overlay;
- 1.9.3** Replacement of an existing structure or building destroyed by fire or other disaster provided that the structure or building is no greater in any dimension and is within the original footprint and that reconstruction begins within two years of the date of destruction unless the building is located in the Coolidge Historic Overlay;
- 1.9.4** Interior remodeling not connected with any change in use and that does not increase the number of bedrooms;
- 1.9.5** Public auctions, garage sales, yard sales and temporary events (such as weddings, church suppers, fairs, concerts, shows, etc.), provided they are not the principal use of land or structures, do not exceed four (4) consecutive days or more than ten (10) occurrences in a calendar year; and that adequate off-street parking and circulation, sanitary and trash collection facilities are provided (a public gathering permit from the town and/or state police may be required);
- 1.9.6** Accepted agricultural and forestry practices, including construction of farm structures (See Section 4.5);
- 1.9.7** Exempt or temporary signs (see Section 3.11.3);
- 1.9.8** Public utility poles and fixtures;
- 1.9.9** Fences or walls no more than 6 feet high. Fences within the town or state right-of-way need separate approval from the Selectboard or Vtrans;
- 1.9.10** Satellite receiving dishes and communications antennae no greater than 15 square feet, and not exceeding 12 feet in height, or 12 feet above the roof if attached to a building;
- 1.9.11** Fuel or propane storage tanks not used for commercial purposes;
- 1.9.12** Accessory small structures, no greater than fifty (50) square feet in footprint area and less than twelve (12) feet in height located outside of setbacks;

**1.9.13** Work incidental to the development of non-commercial trails and outside of the Shoreland Overlay;

**1.9.14** Temporary storage in box trailers, storage containers, and other means of temporary storage (not exceeding 6 consecutive months), provided such are placed in compliance with setbacks;

**1.9.15** Registered motor homes, campers and travel trailers or tents used for temporary habitation (not exceeding 6 consecutive months), provided that they are placed in compliance with setbacks and conform to all applicable Town ordinances;

**1.9.16** Construction trailers as part of a permitted project;

**1.9.17** Ponds under 1 acre outside of the Shoreland Overlay;

**1.9.18** Removal of earth resources totaling less than 100 cubic yards incidental to construction of a building, access to a lot, public road construction, or the operation of a cemetery;

**1.9.19** Public utility power generating plants, transmission facilities and telecommunications facilities regulated under 30 V.S.A. § 248;

**1.9.20** De minimus structures or uses not specifically mentioned in this Ordinance that are incidental and customary to the use on the lot, are consistent with policies of the Town Plan, and so temporary or minimal in their impact on the public that regulation of them is not required to protect health, safety, welfare or environment. Such uses or structures include, but are not limited to: play equipment, parks, unpaved non-commercial trails and paths, and seasonal decorations. The ZA is empowered to make such determinations when needed, and appeals of these decisions shall be made to the ZBA.

**1.9.21** Solar collectors, clotheslines, or other energy devices based on renewable resources for on-site use, including wind turbines less than 100 feet in total height, with a rotor diameter no greater than 20 feet and set back at least 150% of their height from any lot line;

**1.9.22** The granting of utility rights-of-way or easements;

## **1.10 APPLICABILITY**

Except as specifically exempted by law or by this ordinance, no land development may be commenced or substantially altered, nor may any structure be erected, enlarged or altered in such a way as to occupy or overhang additional ground space without a permit therefore issued by the Zoning Administrator. No person shall subdivide land; excavate or extract rock, or any other natural materials for commercial sale; change the use of a building or structure; or conduct preparation incidental to development including land clearing, filling, grading or the alteration or construction of roads and utilities within the Town without first obtaining a Zoning Permit from the Plymouth Zoning Administrator.

A permit is required, to the extent authorized by State law, for all proposed construction or other development, including the placement of manufactured homes, in areas of special flood hazard.

**1.11 PROHIBITED USES**

Any use that is not listed as permissible or exempt is prohibited, including but not limited to the following uses in all Zoning Districts:

Junk Yard

Commercial Slaughter House/Rendering Plant

Fertilizer Plant

Airport/Heliport

Race Track

Landfills, and storage facilities for chemicals, explosives, flammable liquids or other toxic materials are also prohibited in the special flood hazard area.

**1.12 WARNING OF DISCLAIMER OF LIABILITY**

This Ordinance does not imply that land outside the flood hazard Overlay or land use permitted within or outside such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Plymouth or any Town Official or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.



## **2 ZONING DISTRICTS**

### **2.1 ESTABLISHMENT OF ZONING DISTRICTS**

For the purpose of this Ordinance, the following Zoning Districts and Overlay Districts are established within the Town of Plymouth:

Village	VIL
Rural Density Two Acres	RD2
Rural Density Five Acres	RD5
Rural Density Ten Acres	RD10
Mountain Resort	MR
Vacation Resort	VR
Conservation	CON
Shoreland Area Overlay	SL
Flood Hazard Protection Overlay	FH
Coolidge Homestead Historic Area Overlay	CHH

### **2.2 PURPOSE OF BASE ZONING AND OVERLAY DISTRICTS**

The specific purpose of each Zoning District shall be as follows:

#### **2.2.1 Village**

To encourage compatible settlement of higher density to be related to Plymouth Union and Tyson so as to strengthen their structure and function as social and physical centers for community services and interaction.

#### **2.2.2 Mountain Recreation**

To allow for a very dense pattern of clustered residential development along with a variety of incidental commercial uses typical to ski area base development.

#### **2.2.3 Vacation Resort**

To allow for a dense pattern of planned residential development accompanied by associated incidental support uses such as restaurant, fitness club, and conference center associated with the residential resort.

#### **2.2.4 Rural Densities**

The three Rural Density districts have been created to guide the density of rural settlement to the physical limitations imposed by the land, thus minimizing potential health problems, to minimize costs to taxpayers for the provision of public services and utilities; and to create a pattern of settlement which is compatible with the rural and natural character of the town.

##### **2.2.4.1 Rural Density 2 Acre**

To allow for moderate density development at a 2 acre density that includes residential, small commercial enterprises, home occupations, and light commercial, scaled to this area which has good road access and better soils.

**2.2.4.2 Rural Density 5 Acre**

To preserve the rural residential character of the town and allow for low density development, uses allowed in 5 Acre Rural Residential Areas should only include residential, home occupations, agriculture, forestry, and outdoor recreation, as well as rural small enterprises, provided they do not have an adverse impact on neighboring properties.

**2.2.4.3 Rural Density 10 Acre**

To allow for a very low density of residential development , while maintaining open space, wildlife habitat, and timberland.

**2.2.5 Conservation District**

To maintain land in its natural, undeveloped state.

**2.2.6 Shoreland Area Overlay**

To protect the visual aesthetics and water quality of important lakes and ponds in Plymouth.

**2.2.7 Flood Hazard Protection Overlay**

To avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding and erosion; to ensure that the selection, design, creation, and use of development is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair flood plain services or the stream corridor, and to ensure wise use and conservation of lands immediate to lakes, rivers and streams. It is also the intent to regulate development within identified flood hazard areas designated pursuant to 10 V.S.A. Chapter 32 § 753, and river corridor protection areas in accordance with state and federal laws in order to make the Town of Plymouth, its citizens, and businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

**2.2.8 Coolidge Homestead Historic Overlay**

To allow growth while conserving the integrity and character of this special place, ensuring that new construction is complementary to existing buildings and the streetscape which respects the traditional scale, proportions, and shapes of the surrounding neighborhood.

**2.3 ZONING MAP**

The location and boundaries of Base Zoning Districts referenced above are delineated on a map that is hereby designated the Official Zoning Map for the Town of Plymouth. Immediately following adoption of this Ordinance or amendments to the Map, the Selectboard shall sign and date such adoption or revision on the Map and file it with the Town Clerk. This map shall be the final authority as to the current status of land and water areas. Such map shall remain at the Town Offices. Copies of this map and small-scale versions of it shall be made available to the public, as necessary.

## **2.4 OVERLAY ZONING DISTRICTS AND MAP**

The areas and boundaries of the Overlay Zoning Districts are hereby established as:

**2.4.1 Shoreland Area Overlay (SL)** - The area depicted on the zoning map covering lands within 1,000 feet of Amherst Lake, Echo Lake, Colby Pond, Black Pond, and Woodward Reservoir and within 300 feet of Grass Pond.

**2.4.2 Flood Hazard Protection Overlay (FH)** –All areas in the Town of Plymouth identified as areas of special flood hazard in and on the most current flood insurance studies and maps published by the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), National Flood Insurance Program (NFIP), as provided by the Secretary of the Agency of Natural Resources pursuant to 10 V.S.A. § 753, which are hereby adopted by reference and declared to be part of these regulations; as well as lands identified as an ANR-designated river corridor protection area (pursuant to 10 V.S.A. §§ 1422 and 1427) as final or provisional/preliminary on 8/29/12 and any revisions thereafter that are subject to erosional force or overland flooding.

**2.4.3 Coolidge Homestead Historic Overlay (CHH)** - All areas as shown on the zoning map.

## **2.5 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

If uncertainty exists with respect to the boundary of any Zoning or Overlay District, the Zoning Administrator first shall determine the location of such boundary. If the Administrator cannot make such a determination, or the applicant or other interested party is not satisfied with the decision or act, the matter may be appealed to the Board of Adjustment. To assist the Administrator or the Board in making a determination, the applicant or other parties may be required to provide information regarding property lines, road locations, shorelines, and existing land characteristics. For areas in doubt in the FH Overlay District, and where such determination could place the structure outside the Special Flood Hazard Areas (SFHA), the burden of proof shall be on the applicant, who shall seek a Letter of Map Amendment/Letter of Map Revision from FEMA, which if received shall constitute proof. The ZA is also empowered, for purposes of this Ordinance only, to determine that locations are not within the Flood Hazard Overlay where they are clearly at least one foot greater in elevation than mapped flood areas and are not at risk from flooding from overland flow or erosion.

## **2.6 LOTS IN MORE THAN ONE DISTRICT**

If a lot is located in two or more districts, the portion of land in each district shall be governed by the rules of that district, provided that there is sufficient acreage in such district to allow for a conforming lot. When lots only have a complying portion in one district, the entire lot shall be treated as being in that district. Lots without conforming dimensions in any district will be treated as being in the district with the majority of the lot acreage.

## **2.7 USES BY DISTRICT**

Uses are listed under each District in the chart below (P=Permitted Use, C=Conditional Use, X=prohibited). Permitted uses only require a zoning permit, whereas conditional uses require conditional use approval prior to the issuance of a zoning permit. Although not listed, uses customary and incidental to permitted uses are permitted, and those customary and incidental to conditional uses are conditional, unless prohibited.

Overlay zones have the same permitted and conditional uses and other requirements of the underlying zone, unless otherwise specified. Where the overlay has more stringent requirements, these override any more lenient standards in the underlying district. Any changes to the uses in the base districts are found in Sections 2.10-2.12. Special standards for the Flood Hazard Overlay are found in Section 3.6.

	<b>VR</b>	<b>MR</b>	<b>RD2</b>	<b>RD5</b>	<b>RD10</b>	<b>VIL</b>	<b>CON</b>
<b><u>Permitted Uses</u></b>							
<b>Single and Two-Family Dwelling</b>	P	P	P	P	P	P	X
<b>Accessory Dwelling</b>	P	P	P	P	P	P	X*
<b>Boathouse/Pier</b>	P	X	P	P	P	P	P
<b>Home Occupation</b>	P	P	P	P	P	P	X*
<b>Primitive Camp</b>	X	X	X	P	P	X	P
<b>Signs</b>	P	P	P	P	P	P	X
<b><u>Permitted with Conditional Use</u></b>							
<b>Non-formula Restaurant</b>	C	C	X	X	X	C	X
<b>Non-formula Retail</b>	X	X	X	X	X	C	X
<b>Professional Office</b>	C	C	C	X	X	C	X
<b>Resort</b>	C	C	X	X	X	X	X
<b>Public/Church</b>	C	C	C	X	X	C	X
<b>Multiple Dwelling</b>	C	C	C	C	X*	C	X
<b>Bed and Breakfast</b>	C	C	C	X	X	C	X
<b>Telecommunications</b>	C	C	C	C	C	C	C
<b>Earth Extraction</b>	X	X	X	C	C	X	X
<b>Large Group Home</b>	X	X	X	X	X	C	X
<b>Kennel</b>	X	X	X	C	C	X	X
<b>Lodging</b>	C	C	X	X	X	C	X
<b>Outdoor Recreation</b>	C	C	C	C	C	C	C
<b>Light Manufacturing/ Gas Station</b>	X	X	X	X	X	C	X
<b>Rural Small Enterprise</b>	C	C	C	C	X	C	X
<b>Mobile Home Park</b>	X	X	C	C	X	X	X
<b>Subdivision</b>	C	C	C	C	C	C	C
<b>Planned Unit Development</b>	C	C	C	C	C	C	X
<b>*except allowed for a pre-existing structure</b>							

**2.8 DIMENSIONAL STANDARDS BY DISTRICT**

	<b>VR</b>	<b>MR</b>	<b>RD2</b>	<b>RD5</b>	<b>RD10</b>	<b>VIL</b>	<b>CON</b>
<b><u>Minimums</u></b>							
<b>Lot Area (ac)</b>	1	.5	2	5	10	0.5	25
<b>Lot Frontage (ft)</b>	50	50	50	50	50	50	50
<b>Width/Depth (ft)</b>	100	100	150	300	400	85	400
<b>Front Setback (ft)</b>	40	40	50	60	70	30	70
<b>Side/Rear Setback (ft)</b>	20	20	20	25	50	15	50
<b><u>Maximums</u></b>							
<b>Depth to Width ratio</b>	4	4	4	4	4	4	4
<b>Building Height (ft)</b>	40	40	35	35	35	40	35
<b>Building footprint (sf)</b>	10000	10000	5000	5000	5000	4000	n/a
<b>Units per Building</b>	none	none	4	4	4	12	n/a
<b>Required dimensional standards may be waived as allowed under Section 3.10 and in a PUD under Section 5</b>							

**2.9 RIPARIAN BUFFER AND STREAM SETBACK**

A riparian buffer is hereby established in all districts along perennial streams, as identified on the Vermont Hydrography Dataset, to protect water quality, reduce erosion and protect public safety from flood damage. This area shall include all lands between the tops of banks for such streams, as well as within a further distance equal to the rear setback for that district as measured perpendicularly, from the top of the bank.

Notwithstanding any other provision of this bylaw, within such buffer no ground disturbance or placement of structures above or below ground is allowed for regulated uses, except this provision shall not apply to work involving the removal of non-native nuisance species defined as noxious plants by the Vermont Agency of Natural Resources and/or Vermont Department of Agriculture, or work covered as part of a project with: an approved emergency or regular stream alteration permit, a state stormwater permit, a Riparian Buffer Management Plan approved by and in compliance with the Vermont Agency of Natural Resources, or an approved Act 250 permit.

In addition, existing healthy trees 4 inches and over diameter at breast height (dbh) may only be removed in such a manner as to maintain a closed canopy and stumps shall be left in place. Mowed areas may not be established but may be maintained in this area outside of the top of bank.

## **2.10 SHORELAND AREA OVERLAY (SL)**

The permitted and conditional uses in the underlying Districts are all conditional uses within this overlay area.

## **2.11 FLOOD HAZARD PROTECTION OVERLAY (FH)**

Notwithstanding Section 2.7, new principal structures and new net fill are prohibited in the overlay. Replacement structures with no increase in footprint are allowed as under substantial improvements, however replacement structures must be relocated on the lot outside of the overlay, or as close to this as possible to better reduce flood risk. In such situations, the Planning Commission may waive other general district setbacks as needed in order to achieve the greatest public safety.

No zoning permit is needed for normal maintenance and repair, provided it is above the base flood elevation and does not result in any change to the footprint or height of an existing building or structure or constitute substantial improvement.

The following development shall simply require a zoning permit from the ZA provided such is not in floodway:

**2.11.1** Any improvement, renovation or repair within the existing building envelope, including work below base flood elevation, other than as specifically exempted above, that does not constitute a “substantial improvement” as defined herein;

**2.11.2** At-grade parking/patios;

**2.11.3** Decks attached to existing structures with the bottom of support members at least 2 feet above base flood elevation;

**2.11.4** Accessory structures that represent a minimal investment and are no greater than 300 square feet; and

**2.11.5** Placement of recreational vehicles which are licensed and ready for immediate use.

All other development, to the extent authorized by State law, shall require conditional use approval by the Planning Commission prior to issuance of a Zoning Permit.

See Section 3.6 for special standards that apply in this overlay.

**2.12 COOLIDGE HOMESTEAD HISTORIC OVERLAY (CHH)**

The permitted and conditional uses in the underlying Districts are all conditional uses within this overlay area.



### **3 GENERAL AND SPECIAL PROVISIONS**

#### **3.1 EXISTING SMALL LOTS**

Any lot in existence on the effective date of this Ordinance, whether created by deed, previous permit or subdivision due to a public road may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements, so long as such lot is at least one-eighth acre in area, and has a minimum width or depth dimension of at least forty feet.

A noncompliant small lot may be sold or transferred. If such lot subsequently comes under common ownership with one or more contiguous lots, such lot shall not be deemed merged unless joined in a single deed by the owner.

#### **3.2 SUBDIVISIONS – GENERAL AND CONDITIONAL USE STANDARDS**

**3.2.1** Depending on the specifics of a subdivision, either just a Zoning Permit, or Conditional Use Approval and a Zoning Permit, are required for the creation or alteration of a lot. A Zoning Permit is required prior to the filing of any plat in the town records. Plats shall be in compliance with 27 VSA, Chapter 17.

**3.2.2** The following types of subdivision/annexation of land parcels or lots do not require Conditional Use Approval prior to the issuance of a Zoning Permit:

**3.2.2.1** The lease of a portion of a parcel for agricultural or forestry purposes.

**3.2.2.2** The lease of a portion of a parcel where no regulated structures or uses are to be established.

**3.2.2.3** Annexations of parcels in their entirety.

**3.2.2.4** Lot line adjustments between adjacent lots, where the beginning and ending number of lots is the same, all lots are conforming, and the resulting lots have their deeds revised and plats filed to reflect their new boundaries.

**3.2.2.5** The filing of plats for previous subdivisions that were never platted or the filing of plats due to resurvey.

**3.2.2.6** The filing of plats or recording of deeds for lots created by a public road, public waters or railroad.

**3.2.2.7** The granting of rights-of-way or easements other than access agreements in an approved subdivision.

**3.2.2.8** The subdivision of a single lot in existence as of 6/10/13 either through deed or existence of a public waterway or road into two compliant lots.

In granting a Zoning Permit, the Zoning Administrator shall find that the resulting parcels or lots meet with necessary lot area, lot frontage, and setback minimums for the District(s) or that pre-existing non-conformities are not increased. A notice of the decision shall be promptly recorded or filed with the Town by the Zoning

Administrator. Lot Line Adjustments shall be recorded in the deeds of all parcels affected.

**3.2.3** Subdivisions that require Conditional Use Approval shall, in addition to other applicable standards, meet the following:

**3.2.3.1 Development Suitability.** All land to be subdivided shall be suitable for the intended use. The proposed development shall not result in undue adverse impacts to public health and safety, the natural environment, neighboring properties and uses. Subdivisions shall exclude from subsequent development, land that is characterized substantially by periodic flooding, poor drainage, steep slopes (at least 25%) or other hazardous conditions, or that is inadequate to support structures or infrastructure.

**3.2.3.2 Other Regulations in Effect.** Subdivisions shall conform to all other municipal bylaws, ordinances and regulations in effect at the time of application.

**3.2.3.3 Lot Layout.** Lot layout shall:

**3.2.3.3.1** be consistent with site topography and the suitability of the land for development;

**3.2.3.3.2** meet zoning district minimum lot size and density requirements, except as modified for planned unit developments or by waiver or variance;

**3.2.3.3.3** avoid lots with a depth to width ratio of greater than 4:1.

**3.2.3.4 No-Build / No Cut Areas.** The designation of no-build/no cut areas may be required by the Planning Commission to limit visual impact and preserve historical sites; minimize adverse impacts to surface waters, wetlands, floodplains and designated water supply Source Protection Areas (SPAs); and minimize adverse impacts to critical wildlife habitat or significant natural communities/areas identified in the town plan, by the Vermont Department of Fish & Wildlife, or through site investigation. Such no build/no cut areas shall not render a lot that is otherwise buildable as not buildable.

**3.2.3.5 Development Pattern.** All subdivisions shall be designed and configured to reflect the desired settlement pattern for the zoning district(s) in which it is located, as defined in this Ordinance and the town plan. To this end, the following general standards shall apply to subdivisions within the respective districts.

**3.2.3.5.1** Subdivision within the Village Districts shall be designed and configured to reinforce a compact, pedestrian scale and pattern of development. Subdivisions in these districts shall also be designed to incorporate, extend, or connect to existing roads, pedestrian/bicycle paths and utility corridors. Sidewalks and other pedestrian facilities may be required where appropriate.

**3.2.3.5.2** Subdivisions resulting in more than 4 lots within the Residential districts shall be designed to reasonably require the clustering of development in order to minimize fragmentation of forests and open fields and farmland.

**3.2.3.6 Fire Protection.** The Planning Commission, in consultation with the Plymouth Fire Department, may require that the subdivider provide dry hydrants or fire ponds. The Board may also require that fire ponds be designed by a licensed professional engineer.

**3.2.3.7 Water and Wastewater Systems.** The subdivider shall demonstrate to the satisfaction of the Commission that adequate potable water supplies and wastewater collection and disposal capacities exist or will exist on and/or off site to serve the subdivision, or that the required state deed restriction is placed on the deeds. All wells, water distribution and wastewater collection lines, sewage disposal areas and replacement areas are to be identified on the final plat.

**3.2.3.8 Utilities.** All existing and proposed utilities, including but not limited to electric, telephone, and cable television utilities, shall be shown on the final plat. In addition, utility corridors shall be shared with other utility and/or transportation corridors when reasonable.

**3.2.3.9 Stormwater.** Temporary and permanent stormwater management and erosion control may be required to control drainage, protect water quality and avoid damage to downstream properties. A construction stormwater permit from the state shall be incorporated as a permit condition for all projects that disturb more than one acre of land, and an operational permit shall be incorporated as a condition for all projects resulting in the creation of more than one acre of impervious surface.

**3.2.3.10 Common, Dedicated or Protected Land.** Land held in common for the preservation and maintenance of open space or the maintenance and protection of shared facilities (e.g., community wastewater systems, community water supplies, recreation or community facilities, road and trail rights-of-way) may be held under separate ownership from contiguous parcels.

Land held in common shall be subject to appropriate deed restrictions stipulating the permitted and restricted use of such lot, and establishing the person or entity responsible for maintenance and long term stewardship. All costs associated with administering and maintaining open space and/or common land shall be the responsibility of applicant and subsequent land owners.

**3.2.3.11** All subdivision proposals shall be reasonably safe from flooding and new subdivision proposals and subdivisions that are greater than 50 lots or 5 acres within the flood hazard overlay, whichever is the lesser, shall include base flood elevation data. No lot may be created that is not buildable in compliance with this Ordinance.

### **3.3 REQUIRED FRONTAGE ON, OR ACCESS TO, PUBLIC ROADS OR WATERS**

This provision exists to ensure that legal access is available from adjoining land to a lot that does not have frontage on a public road. Accordingly, no lot may be created or offered for sale unless it is demonstrated to the Planning Commission that permanent access exists prior to creating the lot.

A purpose of zoning is to ensure lots are properly configured and sized to accommodate the efficient use of land. This includes a requirement that a lot have minimum frontage distances as set forth in each District.

**3.3.1** No land development may be permitted on lots which do not have frontage on a public road or water, except with the approval of the Planning Commission under Section 3.3.2 below.

**3.3.2** In the event that a lot does not have frontage on a public road or water, prior to approval, the owner of said lot or his agent, shall submit to the Planning Commission an easement acceptable to the affected parties which establishes a permanent right-of-way of at least 30 feet in width, or 50 feet in the case of subdivisions not restricted by deed to no more than two lots, the benefit and burden of which shall run permanently with the lot.

Rights-of-way shall comply with Section 3.17.

**3.3.3** Based upon the above submission and any other relevant evidence and testimony offered, the Planning Commission shall conclude whether or not said lot has an acceptable permanent access to a public road or water.

#### **3.4 HOME OCCUPATION - STANDARDS**

Notwithstanding the uses listed in 2.7, this Ordinance provides the right for any resident to use either a minor portion of a dwelling or its accessory building, following issuance of a zoning permit, for an occupation which is customary in a residential area, does not have an undue adverse effect upon the character of the residential area in which the dwelling is located and meets the following standards:

**3.4.1** The conduct of a home occupation is clearly secondary to the principal residential use of the premises.

**3.4.2** The home occupation is conducted by the resident and may only employ on site full-time residents of the house and up to two (2) other full-time-equivalent (forty-hour work week) persons.

**3.4.3** The home occupation is operated entirely within the residence and/or accessory building and shall not cumulatively exceed fifty percent (50%) of the total finished floor area of the residence.

**3.4.4** Automobile traffic generated is not at a volume substantially greater than would be normally anticipated in the neighborhood.

**3.4.5** Storage of goods, parts, supplies, and machinery used in the home occupation is inside a building or screened from public view and adjoining properties. Any public display of products is only during open hours.

**3.4.6** There is no obnoxious or excessive noise, vibration, heat, dust, glare, smoke, odors, or other forms of interference not characteristic of residential uses and intruding beyond the property line.

**3.4.7** No more than one unlit sign, not exceeding 9 square feet, is allowed

**3.4.8** Examples of acceptable Home Occupations, include telephone and internet sales, data entry, food catering, beauty salon, contractor, free-lance writing, artist studio, antique shop and home office. Examples of uses not considered a home occupation include primary retail sales (except sales of antiques, or agricultural or handcrafted products assembled or produced on the premises), auto and heavy equipment service and repair, and restaurants.

### **3.5 RURAL SMALL ENTERPRISE – CONDITIONAL USE STANDARDS**

Small enterprises in rural areas are encouraged provided that their size, type, appearance and setting fit with the overall character of the community and do not cause undue or unnecessary hardship on community services such as roads or fire protection. In order to protect the rural character of the area, the impact of additional traffic on the rural road system shall be a strong factor in the review procedure. Many of the Plymouth's rural roads cannot support additional traffic especially during mud season and snow season.

A Rural Small Enterprise is a non-residential use requiring Conditional Use Approval prior to the issuance of a Zoning Permit. Except as outlined below, Rural Small Enterprises must also comply with Home Occupation standards. Below are additional special permit conditions that shall be included as part of conditional use approval:

**3.5.1** The owner of the enterprise shall work on the property.

**3.5.2** No more than five (5) on-site employees shall be permitted, exclusive of the owner.

**3.5.3** Exterior displays and signs, other than those normally permitted in the District, exterior storage of materials in public view, and substantial variation from the dominant character of the area shall be prohibited.

**3.5.4** The project shall generate only minimal increases or changes in traffic volumes or patterns. No project shall cause unsafe conditions or unreasonable congestion on roads in the vicinity of the site.

### **3.6 FLOOD HAZARD OVERLAY – GENERAL AND CONDITIONAL USE STANDARDS**

**3.6.1** The ZA shall notify the Vermont Department of Environmental Conservation at least thirty (30) days prior to approval of any permit in this district, or alteration, or relocation of a water course and shall submit copies of such notifications to the Federal Insurance Administrator (FIA) Administrator. Adjacent communities and the Stream Alteration Engineer at the Vermont Agency of Natural Resources, Department of Environmental Conservation, River Management Section shall be notified at least 30 days prior to issuing any permit for the alteration or relocation of a watercourse and copies of such notification shall be submitted to the Administrator of the National Flood Insurance Program. Any permit issued shall assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

**3.6.2** Prior to issuance of a permit or noticing a hearing for development requiring a hearing, a copy of the application and supporting information shall be submitted by the Zoning Administrator to the State National Floodplain Insurance Program Coordinator at the Vermont Agency of Natural Resources, Department of Environmental Conservation,

River Management Section in accordance with 24 V.S.A. § 4424. A permit may be issued only following receipt of comments from the Agency or the expiration of 30 days from the date the application was mailed to the Agency, whichever is sooner.

**3.6.3** Any permit issued will require that all other necessary permits from State or Federal Agencies have been received before work may begin.

**3.6.4** Applications for development in the Overlay shall include the following:

**3.6.4.1** Base flood elevation data for all subdivisions, substantial improvements and other proposed new developments;

**3.6.4.2** Where applicable, a site plan that depicts the proposed development, all water bodies, Special Flood Hazard Areas, floodways, River Corridors, setbacks, the shortest horizontal distance from the proposed development to the top of bank of any stream, any existing and proposed drainage, any proposed fill, pre and post development grades, existing mowed areas, existing and proposed impervious cover, construction limits including ground disturbance, and the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps;

**3.6.4.3** A Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet shall identify all State and Federal agencies from which permit approval is required for the proposal, and shall be filed as a required attachment to the municipal permit application. The identified permits, or letters indicating that such permits are not required, shall be submitted to the ZA and attached to the permit before work can begin;

**3.6.4.4** A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

**3.6.5** Where available, the base flood elevations and floodway limits provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps shall be used to administer the provisions of this Ordinance.

**3.6.6** In special flood hazard areas where base flood elevations and floodway limits have not been provided, the ZA/Planning Commission shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for approval of all development. If no such data exists, it is the applicant's responsibility to provide it.

**3.6.7** Floodway Areas - Development, except for improvements to existing structures or relating to bridges, culverts, roads, stabilization projects, public utilities, or health and safety measures, within the floodway is prohibited. Proposed developments must demonstrate through hydrologic and hydraulic analyses, performed and certified in accordance with standard engineering practice by a registered professional engineer, that the proposed development will result in no (0.00 feet) increase in flood levels during the occurrence of the base flood.

For flood hazard areas without a designated regulatory floodway (A zones), such areas will be considered the floodway unless an engineering analysis establishes a floodway.

No substantial improvements, or other development, in A zones shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development will not increase the water surface elevation of the base flood at any point within the community.

**3.6.8** – All development as allowed under Section 2.11 shall be designed:

**3.6.8.1** to be reasonably safe from flooding and shall not decrease the distance between any existing primary buildings and streams;

**3.6.8.2** to minimize damage to the proposed development and to public facilities and utilities;

**3.6.8.3** to provide adequate drainage to reduce exposure to flood hazards;

**3.6.8.4** designed (or modified) and anchored to resist flotation, collapse, or lateral movement;

**3.6.8.5** to be constructed with materials resistant to flood damage;

**3.6.8.6** to be constructed by methods and practices that minimize flood damage;

**3.6.8.7** to be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, and at least one foot above base flood within the special flood hazard area.

**3.6.8.8** so as to minimize conflict with changes in channel location over time and the need to intervene with such changes; and,

**3.6.8.9** to locate any fuel storage tanks a minimum of one foot above the base flood elevation, within the special flood hazard area, and to securely anchor them to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.

**3.6.8.10** such that the flood carrying capacity of the fringe area and any watercourse therein shall be maintained.

**3.6.8.11** such that new and replacement water supply and sanitary sewage systems minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

**3.6.8.12** such that on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**3.6.8.13** such that existing buildings to be substantially improved that are located in Zones A, A1-30, AE, and AH shall have the lowest floor, including basement, elevated to at least one (1) foot above base flood level.

**3.6.8.14** such that existing manufactured homes to be substantially improved/replaced within the special flood hazard area shall be elevated on properly compacted fill or piers such that the entire manufactured home is at least one (1)

foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement during the occurrence of the base flood.

**3.6.8.15** such that construction located within Zones AH and AO shall have adequate drainage paths around structures on slopes, to guide floodwater around and away from the proposed structures.

**3.6.8.16** such that any fully enclosed areas that are above grade on any side, below the lowest floor, below BFE and/or subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria: A minimum to two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Such areas shall be used solely for parking of vehicles, building access, or storage and such a condition shall be stated in the permit.

**3.6.8.17** such that within the special flood hazard area there is no loss of flood storage capacity, therefore no net fill below the base flood elevation will be allowed.

**3.6.8.18** such that the development shall not increase the susceptibility of that parcel or other properties to fluvial erosion damage;

**3.6.8.19** such that the development shall not increase the potential of materials being swept onto other lands or into the stream and causing damage to other properties from fluvial erosion;

**3.6.8.20** such that the development shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after floods.

**3.6.9** Fully enclosed areas below grade on all sides (including below grade crawlspaces and basements) are prohibited.

**3.6.10. Non-Complying Structures**

Notwithstanding Section 4.7, the Planning Commission may only, after public notice and hearing, approve the repair relocation, replacement, or enlargement of a non-complying structure within the Flood Hazard Overlay, subject to compliance with the applicable considerations and requirements this section of this Ordinance, the applicable requirements of 44 CFR, §60.6(a), of the National Flood Insurance Program regulations, and provided that the following criteria are met:

**3.6.10.1** A nonconforming structure that is substantially damaged or destroyed may be reconstructed only in conformity with this ordinance, including location. In such a case as no location is conforming, it shall be treated as a variance.



The Commission finds that the repair, relocation, or enlargement of such non-complying structure is required for the continued economically feasible operation of a non-residential enterprise.

**3.6.10.2** In the case of a structure that remains noncompliant within the special flood hazard area in terms of this ordinance, the permit so granted shall state that the repaired, relocated, or enlarged non-complying structure is located in a regulated flood hazard area and does not comply to the ordinance pertaining thereto, may not be eligible for any flood insurance pertaining to regulated flood hazard areas, and will be maintained at the risk of the owner.

### **3.7 SEWAGE DISPOSAL**

An applicant for a Zoning Permit whose land requires a Wastewater Permit from the Wastewater Management Division of the Agency of Natural Resources shall obtain such permit prior to the consideration of a Zoning Permit. A copy of the Wastewater Permit shall be submitted as part of the zoning application in order for the application to be considered complete. In cases where a deed notice is being used instead of a designed system, the deed notice must be filed prior to the issuance of a zoning permit.

### **3.8 MORE THAN ONE PRINCIPAL BUILDING PER LOT**

With the exception of Planned Unit Developments, no more than one principal building may be placed on a lot unless the lot on which such buildings and any building accessory to such principal buildings is able to be subdivided into separate and individual lots, both lots and their respective uses and structures conforming to all applicable provisions of this Ordinance. This provision does not require that a subdivision of the lot be effected nor does such provision establish at any subsequent time the right to subdivide the lot.

### **3.9 MIXED USES**

Two or more uses, principal or accessory, may exist on the same lot so long as requirements for all involved uses are met. Any use must receive any required permit, but a single application can be made for a combined use.

### **3.10 WAIVERS**

Waivers may be granted using the process for conditional use to reduce dimensional requirements only as specified below:

**3.10.1** Reduce front or side setbacks as needed to allow for necessary disability access for existing structures;

**3.10.2** Reduce side and rear setbacks as needed to allow for necessary fire safety improvements for existing structures;

**3.10.3** Reduce side setbacks in the Village district, when the reduction is no greater than the setbacks for existing structures on any adjacent lot, provided it is at least 5 feet;

**3.10.4** Reduce front setbacks in the Village district, when the reduction is no greater than the setbacks for existing structures on any adjacent lot, provided it is at least 30 feet.

**3.10.5** Reduce the frontage requirement on a lot in the Village, Vacation Resort or Mountain Resort provided that the frontage is reduced to no less than 50 feet.

**3.10.6** Reduce side and rear setbacks in the Mountain Resort and Vacation Resort to no less than 5 feet from lot lines or 10 feet from other structures, and front setbacks to no less than 10 feet from the property boundary on lots that do not have direct road access in order to cluster development in a PUD.

**3.10.7** Reduce any dimensional requirements of any district, outside of the overlay districts, if the proposed development meets all of the following criteria:

**3.10.7.1** The proposed development conforms to the existing or planned development patterns of the district;

**3.10.7.2** The proposed development will more effectively preserve open land or scenic vistas or create affordable housing; and

**3.10.7.3** The waiver will not result in a greater than 50% decrease in any dimensional requirement.

### **3.11 SIGNS**

#### **3.11.1 Purpose**

Unplanned outdoor advertising is detrimental to Plymouth's scenic and historic resources and these are considered vital to the town's economic growth and social well being. It is also hazardous to road uses, and adversely affects property values. For these reasons, it is the policy of the Town to regulate the size, type, number, and location of signs erected in the town.

#### **3.11.2 Permit Required**

Except for signs necessary for public safety and exempt signs, no person shall construct, erect, display, or modify an outdoor sign without first obtaining a Zoning Permit from the Zoning Administrator.

#### **3.11.3 Exempt Signs**

The following signs are exempted and do not require a Zoning Permit:

**3.11.3.1** One real estate "for sale" sign per property not to exceed 4 square feet;

**3.11.3.2** Temporary signs, such as those advertising garage sales, auctions, and church fairs, not exceeding 12 square feet and displayed for a period of not more than 7 days;

**3.11.3.3** Contractor signs not exceeding 12 square feet displayed during the construction period;

**3.11.3.4** Instructional signs (e.g. exit, parking in rear, watch for falling ice) not exceeding 2 square feet and not more than three per property;

- 3.11.3.5** Window display signs pertaining to activities conducted within a building;
- 3.11.3.6** Political signs;
- 3.11.3.7** No trespassing signs;
- 3.11.3.8** Road signs designating private ways or trails;
- 3.11.3.9** Residential signs containing non-commercial content not exceeding 6 square feet;
- 3.11.3.10** Official business directional signs and other public signs located within a road right of way;
- 3.11.3.11** One sign not to exceed 3 square feet for home identification, instructional or directional purposes; and
- 3.11.3.12** Temporary signs advertising an event or activity sponsored by a civic or community organization.

**3.11.4 General Requirements for All Signs Requiring a Permit**

- 3.11.4.1** All signs shall be incidental to the use of the property and be located on the premises.
- 3.11.4.2** Every sign shall be maintained in good condition and repair.
- 3.11.4.3** Freestanding signs shall not exceed sixteen (16) feet in height above the finished grade.
- 3.11.4.4** Signs attached to a building shall not extend beyond or above that building by more than four (4) feet.
- 3.11.4.5** Signs shall not contain moving parts, nor be illuminated by neon or flashing lights or contain LEDs. Signs shall not be illuminated outside of open hours.
- 3.11.4.6** Signs shall not be located in the right of way or be placed in such a way as to obstruct visibility or create a safety hazard.
- 3.11.4.7** For each independently operated business no more than three (3) business signs on the lot shall be permitted; Existing non-complying signs shall be counted in determining the number of signs.
- 3.11.4.8** The sign area for a business sign shall not exceed 32 square feet or 64 square feet if the sign is facing Route 100 or Route 100A.
- 3.11.4.9** Signs that are illuminated by external lights must have lights placed and shielded so that they do not produce glare, distraction, or confusion to vehicular traffic and neighbors.
- 3.11.4.10** All signs shall be setback at least one-half of the minimum setback distance.

### **3.12 EXTRACTION OF GRAVEL, SAND, SOIL, AND MINERALS – CONDITIONAL USE STANDARD**

The extraction of gravel, sand, soil, and minerals, or a substantial change from an existing operation, involving the removal or transport of 60 or more cubic yards of material in any given year from the premises shall require Conditional Use Approval from the Planning Commission. The Commission in granting approval shall find that:

#### **3.12.1 Restoration**

Plans for the restoration of the disturbed portions of the site during and following the operation are adequate to ensure that a safe, attractive, and useful condition results;

#### **3.12.2 Operations**

Plans for the operation of the facility are sufficient to insure that the operation will not adversely affect water quality or drainage patterns; or create discernable dust or vibration at the site's property boundary. If power crushing or sorting operations are proposed on the site, such activity will not unduly affect the character of the immediate neighborhood area.

#### **3.12.3 Intensity**

The scale of intensity of the operation will not create damage to local roads on bridges, culverts, and roads leading to and from the project site;

#### **3.12.4 Rehabilitation**

To insure that the rehabilitation of the site is properly managed, the Commission, as a condition to its approval, may require that a performance bond or other forms of surety be posted to cover the costs of restoration or that no more than a predetermined area of the site is exposed at any one time. However, bonding provisions will not apply to quarrying or mining as these uses are specifically exempted per 24 V.S.A. Section 4407(8).

### **3.13 WIRELESS COMMUNICATION FACILITIES – CONDITIONAL USE STANDARD**

#### **3.13.1 Standards**

Prior to granting such Conditional Use Approval, the Commission shall make affirmative findings for each of the following criteria in addition to the other applicable provisions set forth in this Ordinance:

**3.13.1.1 Height Limitations** - The height limit for antennae and towers in all Districts shall not exceed the minimum necessary to achieve the coverage objective above ground elevation at the base of the structure. Applicants must demonstrate how this criterion is being met.

**3.13.1.2 Lighting** - No lighting shall be permitted on towers, except as may be specifically required by FAA regulations or where deemed necessary by the Commission. All tower lighting incidental to the tower shall be shielded to minimize glare. All ground lighting shall be directed downward towards the facility and not towards neighboring properties.

**3.13.1.3 Bulk, Height, and Glare** - All towers shall be constructed in such a manner as to minimize height, mass, and guy wire supports for the intended use. Materials utilized for the exterior of any structure shall be of a type, style, and

location so as to minimize glare and not result in an undue adverse impact from public vantage points and abutting properties.

**3.13.1.4 Screening/Camouflage** - Screening shall be required at the perimeter of the site unless it can be demonstrated that natural foliage is adequate. A planted or natural vegetative screen shall be a minimum of ten (10) feet in depth with a minimum height of six (6) feet and shall have a potential to grow to a height of at least 15 feet at maturity. Existing on-site vegetation outside the site for the facility shall be preserved or improved. Disturbance to existing topography shall be minimized, unless in such districts it would result in less visual impact on the facility from surrounding properties and areas. Towers may be required to be painted, use artificial tree-shapes or other reasonable methods to minimize visual impact.

**3.13.1.5 Co-location** - The principal of co-location shall be employed, where feasible, to minimize the number of wireless communication towers necessary to transmit or receive legally authorized signals. This shall impose a burden upon the applicant to demonstrate that there are no existing sites which are suitable to the applicant's needs despite a due diligence search, and that if such facilities do exist, that they are either technically inadequate or that the owner, after a process of good faith negotiation, will not allow collocation. It shall be the burden of the applicant to perform a minimal analysis of technical feasibility.

The applicant shall be required to permit other wireless service providers to collocate on the proposed tower subject to reasonable terms and conditions and to construct the tower in such a manner that it can accommodate the equipment or facilities of another user without an increase in size or height.

**3.13.1.7 Access Roads and Utilities** - Where new wireless communication facilities require construction of or improvement to access roads, to the extent practicable, roads shall follow the contour of the land. Access roads, when consistent with the purposes of this section and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields. Utility or service lines shall be designed and located so as to minimize or prevent disruption to the scenic character or beauty of the area, this may include burying of lines. New or improved roads or utilities may be required to be gated and limited to the exclusive use of the cell tower.

**3.13.1.8 Protection of Scenic Ridges and Hillsides** - Where, the Commission, after consultation with the applicant, determines that a proposed wireless communication facility will likely be visible against the skyline from at least one vantage point on a State road or Class II Town road, or at least two vantage points on a Class III town road no less than 1000 feet apart, the applicant shall prepare a report identifying the duration and frequency for which the tower would be visible to a passing motorist in feet and the distance to the proposed facility from the vantage points. The Commission may require the report to include the elevation of the ground level of the facility site, the average elevation of vegetation within 100 feet of the facility within the affected viewshed, the slope of the facility site, the vertical height of the facility, appropriate design measures and recommendations to minimize any impact on scenic quality.

To assist the Commission in its review of a likely visual impact of proposed facility under this section, the Commission may require the applicant to fly or raise a three (3) foot diameter balloon at the maximum height of the proposed facility at a location within fifty (50) horizontal feet of the center of the proposed facility. The applicants shall provide at least seven (7) days written notice to the Commission the date and time of the test. The applicant shall provide to the Commission photographs of the balloon test taken from at least four vantage points previously designated by the Commission.

Upon review of the applicant's report, supporting materials, testimony from the parties, and inspections from the designated vantage points, the Commission shall find that the proposed wireless communication facility shall not have an undue adverse visual impact on the scenic or natural beauty of the land proposed to be developed as viewed from public road within the Town.

Where a tower would break or cross the skyline when viewed from the identified vantage points, the Commission may designate an alternative location for the tower to be evaluated by the applicant. In consideration of this, the applicant may revise its application to include such a site, assuming it is available to the applicant and reasonably technically feasible to meet the applicant's broadcast objectives.

For the purposes of this section, a wireless communication facility shall be presumed likely to be visible against the skyline when the facility is more than eight (8) inches wide or in diameter at the point where it intersects the tree line or forest canopy.

In determining whether or not a tower would have an undue adverse visual impact on the scenic or natural beauty of a ridge or hillside, the Commission shall consider:

- the period of time during which the proposed tower would be viewed by the traveling public on a public road;
- the frequency of the view of the proposed tower as experienced by the traveling public;
- the degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures;
- background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
- the distance of the proposed tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
- the number of vehicles traveling on a public road or water at or near the critical vantage point;
- the sensitivity or unique value of the particular view affected by the proposed tower; and
- significant disruption of a view shed that provides context to a historic or scenic resource.

The Commission shall have the authority to impose conditions consistent with the purpose of this section in approving a proposed plan for the development of a wireless communication facility. A notice of decision with conditions shall be promptly recorded or filed with the Town by the Zoning Administrator. It shall be the obligation of the permittees and subsequent assigns to remain in compliance with all conditions.

### **3.13.2 Application Requirements For Wireless Facilities**

As required under this section, an application shall include at least the following information:

**3.13.2.1** Name and address of the record landowners and any duly appointed agents of the parties;

**3.13.2.2** Names and addresses of the record owners of all abutting property;

**3.13.2.3** A map or sketch on Mylar of the property proposed to be developed, professionally drawn to scale and with the area to be developed clearly indicated;

**3.13.2.4** A description of the proposed development;

**3.13.2.5** The location of the proposed structure on a USGS Topographic Map or Survey with 20' elevations or a GIS generated map compatible with VCGI standards;

**3.13.2.6** A utility and access road plan located on a USGS Topographic Map;

**3.13.2.7** Where the wireless communication facility is located on a parcel that is forested, the approximate average height of the existing vegetation within 100 feet of the tower base;

**3.13.2.8** A design or plan for all structures, buildings, or facilities proposed for the site;

**3.13.2.9** The proposed locations of all existing and proposed wireless service facilities in Plymouth for all licensed carriers seeking approval under this application;

**3.13.2.10** A cumulative radio frequency radiation study demonstrating compliance with FCC standards at the site;

**3.13.2.11** Existing wireless communication facility for any competitor providing functionally equivalent service to Plymouth and the estimated coverage area; and

**3.13.2.12** The applicant shall provide construction sequence and time schedule for completion of each phase of the entire project to the Commission.

### **3.13.3 Provision for independent consultants**

To assist the Commission in its review of applications for Conditional Use Approval under this section, the Commission may employ or contract with consultants whose services shall be paid for by the Town. Any or all final reports or documents prepared by the consultant shall be made available to the applicant and other parties to the proceeding.

### **3.13.4 Amendments**

An amendment to a prior approved wireless communications facility may be considered by the Commission and shall require Conditional Use Approval from the Commission when any of the following are proposed:

**3.13.4.1** A change in the number of facilities permitted on the site;

**3.13.4.2** Changes in technology used for the facility; or

**3.13.4.3** An addition of any equipment or additional height not specified in the original application.

**3.13.5 Fees**

A schedule of fees for wireless communications facilities to cover project review, permitting, and monitoring costs shall be established by the Selectboard and may from time to time be amended.

**3.13.6 Removal Of Abandoned Antennas And Towers**

Any wireless communications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of said tower provides proof to the contrary through quarterly inspections. The owner shall remove the abandoned structure within 90 days of receipt of a declaration of abandonment from the Commission notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a noticed public hearing conducted by the Commission with notice to the last known owner/operator and occupants of the tower. If the abandoned tower is not removed within 90 days, the Town may bring action to have the tower removed. The Commission, as a condition to approval, shall require the applicant to provide a performance bond, or similar form of surety payable to the Town at an amount sufficient to cover the full costs of removal of a tower antenna in the event that the facility is declared abandoned.

**3.13.7 Consistency With Federal Law**

This Ordinance is intended to be consistent with Section 704 of the 1996 Telecommunications Act. Accordingly, they shall not prohibit or have the effect of prohibiting the provision of personal wireless communications services; shall not unreasonably discriminate among providers of functionally equivalent services; and shall not regulate personal wireless services based on the environmental effects of radio frequency emissions to the extent that these facilities comply of the Federal Communications Commission regulations concerning such emissions.

**3.14 HEIGHT LIMITATIONS – GENERAL AND CONDITIONAL USE STANDARD**

Except for farm structures, silos, private home antennae, belfries, steeples, cupolas, water tanks, chimneys, windmills, telecommunications facilities, solar equipment, or other appurtenances not used for human occupancy, all structures shall not exceed a height of 35 feet above average ground level unless approved by the Planning Commission.

**3.15 OUTDOOR LIGHTING – CONDITIONAL USE STANDARD**

Inappropriate and poorly designed or installed outdoor lighting can cause unsafe and unpleasant conditions for the residents and visitors of Plymouth. Excessive lighting limits



the ability to view the nighttime sky and results in unnecessary use of electric power. On the other hand, it is recognized that outdoor lighting is appropriate in village or developing areas. Where outdoor lighting installation or replacement is part of a development proposal for which Conditional Use is required, the Planning Commission shall review and approve lighting plans as part of review under Conditional Use. In granting approval, the Commission shall find that:

**3.15.1** All lights are to be shielded so light is directed downward and not into the night sky; lighting is directed towards the property and not towards neighboring properties;

**3.15.2** Lighting is placed on the lot so as to avoid glare nor create a traffic hazard;

**3.15.3** Pole heights for lights are compatible with the scale of surrounding buildings and the site;

**3.15.4** Light levels and distribution are appropriate to the use and do not exceed IESNA recommended minimum standards and other light levels in the immediate vicinity; and

**3.15.5** Lighting plans include timers, dimmers and similar devices to eliminate unneeded lighting and reduce overall energy consumption.

The Planning Commission and applicants are encouraged to use the *Outdoor Lighting Manual for Vermont Municipalities* (1996) as a guideline in the evaluation and development of lighting plans.

### **3.16 OUTDOOR STORAGE – GENERAL STANDARD**

The long-term open storage of building materials, inoperable or retired junk vehicles, dismantled equipment and other similar items shall be screened from view from a public road whether or not such items are used in connection with a business. Sight-blocking fences, walls, trees, shrubs, buildings, and land contours are acceptable means of screening outdoor storage. Maintenance of screening for the above purposes shall be a responsibility of the owner of the premises.

### **3.17 ACCESS ROADS AND PERMITS**

The Zoning Administrator or Planning Commission, as part of the review of a proposed permitted or conditional use, shall determine whether or not the proposed land use development meets with this section.

No access road or driveways shall be located less than 100 feet from the intersection of the right-of-way lines of intersecting public roads. No access road shall be wider than is reasonably necessary to safely accommodate the traffic passing over it. The total number of access roads permitted on each side of a continuous length of road frontage on a parcel existing on the effective date of this Ordinance shall not exceed the number set forth below. In determining the number of access roads, entrances for farm or forestry purposes shall not be considered. In calculating the number of access roads permitted, any access road in existence prior to the passage of this section or constructed thereafter shall be included. These standards shall not apply to temporary access driveways to a project for construction equipment and similar activities. For the Parcel;

if continuous Road Frontage is less than 800 feet, 2 Access Roads Permitted

if continuous Road Frontage is between 801 and 1600 feet, 3 Access Roads Permitted

if continuous Road Frontage is between 1601 and 2400 feet, 4 Access Roads Permitted

if continuous Road Frontage is between 2401 and 3200 feet, 5 Access Roads Permitted

if continuous Road Frontage is greater than 3201 feet, 6 Access Roads Permitted

All new private roads, rights-of-way and driveways over 200 feet in length shall also be engineered so that ditches and culverts are sufficient to handle stormwater without suffering damage in accordance with applicable town or state standards, that any stormwater entering the town's road drainage system does not adversely affect the system, and no grade exceeds 12% and so that emergency vehicles have adequate access.

Prior to any property owner or person constructing or reconstructing an access road, obstructing a ditch or drainage course, or installing or replacing a culvert within the right-of-way of a public road, a permit shall first be issued by the Selectboard in the case of a Town road or the Vermont Agency of Transportation in the case of a State road. Culverts and bridges installed in streams also need a state permit. Construction or reconstruction that disturbs more than an acre of soil or creates a gravel or paved surface of more than 5000 square feet may require a state stormwater permit. Contact the Town Offices for more information.

### **3.18 OFF-STREET PARKING – GENERAL AND CONDITIONAL USE STANDARDS**

No development shall be permitted unless there is provided off-street parking that meets the applicable minimum requirement as set forth below.

**3.18.1 A parking space** shall be nine (9) feet by eighteen (18) feet per vehicle.

**3.18.2 Residential Uses:** Two parking spaces for each dwelling unit outside the right-of-way.

**3.18.3 Places of Public Assembly and Restaurants:** One parking space for every three seats, or where there are no seats provided, one parking space for every 200 square feet of floor area in addition to one space for each business and employee vehicle.

**3.18.4 Commercial or Light Industrial Uses:** One parking space for every business and employee vehicle plus one parking space for every 200 square feet of floor area.

**3.18.5 Industrial Uses:** One parking space for every business and employee vehicle.

**3.18.6 Home Occupation:** Two parking spaces in addition to two parking spaces for each family dwelling unit.

**3.18.7 Professional Offices:** One parking space for every 200 square feet of office floor area.

**3.18.8 Guest House, Bed and Breakfast, Lodge/Inn, Hotel/Motel:** One parking space for each room available for lodging in addition to two parking spaces for each family dwelling unit, where applicable.

**3.18.9 Other Parking Standards:** In the case of mixed uses occupying the same building or lot, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately.

**3.18.10** All parking areas shall be located on the lot for the parking requirement was generated unless off-site alternatives are approved by the Commission.

**3.18.11** Parking area minimum requirements shall not be satisfied by the use of lands lying within a public right-of-way.

**3.18.12** Any parking area for a conditional use located within any front yard may require screening. Screening plans shall focus on separation of parking lots from adjoining public streets to minimize visual impact and glare from vehicle headlights onto public streets. The use of berms and landscape materials is the preferred method of screening. Notwithstanding, the Commission may accept fencing, if it is determined to be a practical alternative.

**3.18.13** Parking lots for conditional uses shall be designed to minimize safety hazards for pedestrians. Pedestrian paths shall be included as part of the development and provide for separation of vehicle and pedestrian traffic, where practicable.

**3.18.14** Outdoor lighting plans for parking areas shall be in conformance with Section 3.15.

**3.18.15** Shared parking arrangements for non-residential uses may be approved by the Commission upon finding that satisfactory long-term availability of parking exists between separate users.

**3.18.16** The Commission may reduce parking requirements at the request of the applicant. On finding that the parking requirements set forth above are excessive based upon the characteristics of the particular use(s) based upon parking studies or similar information.

### **3.20 LANDSCAPING AND SCREENING – CONDITIONAL USE STANDARD**

Where a conditional use abuts a residential use, the Conditional Use Approval shall require the owner to maintain a buffer strip of land not less than fifteen (15) feet in depth along such common boundary. The strip shall be maintained and used only for a fence or natural plantings such as coniferous trees and shrubs in order to lessen noise and visual impact.

### **3.21 SHORELAND OVERLAY STANDARDS – GENERAL AND CONDITIONAL USE STANDARDS**

#### **3.21.1 Minimum Shoreland Frontage**

All development with shoreland access must have a minimum shoreline frontage of 75 feet. In addition to this minimum, shoreline frontage of five (5) feet is required per lodging room in lodging establishments, per space in a travel trailer or mobile home park, or per dwelling unit. Single family dwellings located on the lake front shall have a minimum shoreline frontage of 75 feet.

**3.21.2 Minimum Shoreland Setback**

All structures shall be setback at least 75 feet from the shore except for boathouses, piers, docks, and floats.

**3.21.3 Natural Cover**

Existing healthy trees 4 inches and over diameter at breast height (dbh) may only be removed within a strip paralleling the shore and extending 50 feet inland from all points along the shoreline in such a manner as to maintain a closed canopy. No ground disturbance is allowed within this area except for removal of structures and the creation of a path no greater than 8 feet in width to the shore. Paths shall have waterbars to preclude runoff from entering the lake.

The remaining area of the building site, that is the area behind the aforementioned 50-foot strip, shall remain at least 50% (fifty percent) in forest cover, except that the area required for access and for the structure or structures shall not be included when figuring this remaining area.

Conditional use approval shall require that any cutting or clearing of the natural shrubbery and vegetation is minimized in order in order to screen (as viewed from the lake) cars, dwellings, and accessory structures, except boathouses.

Limitations under this section on shore cover removal shall not apply to the removal of invasive, dead, diseased, or dying trees or vegetation which may be removed, or to silvicultural thinning upon recommendation of the County Forester.

**3.22 COMMERCIAL AND INDUSTRIAL – CONDITIONAL USE DESIGN STANDARDS**

Most of Plymouth is rural in nature. Predominate structural uses are single-family residences with associated outbuildings. This Ordinance makes accommodation for a range of non-residential uses throughout most rural areas of Town. The intent of this provision is to ensure that new commercial and industrial developments are sited and designed in ways that reasonably fits within the context of its setting and immediate surroundings. Planning that is sensitive to the Plymouth’s scenic and historic amenities is good for the community.

Commercial and industrial projects must meet the following design standards:

**3.22.1** Landscaping is required in front and side yards, adjacent to parking areas, and where rear yards abut residential properties or public roads. Removal of existing trees shall be minimized, especially those that are mature or have special horticultural or landscape value in order to visually reduce the scale or bulk of large buildings, to integrate the site with the surrounding landscape, and to enhance environmental quality.

**3.22.2** Screening may be required where topographical or other barriers are not adequate. This may apply to situations where a more intensive use is proposed to abut less intensive uses, adjacent to garbage collection and utility areas, outdoor storage and loading areas and similar utilities and facilities. Screening should provide a year-round visual screen, particularly from public roads. Materials may include fencing, shade trees, and evergreen shrubs.

**3.22.3** Parking lots shall be bordered with a buffer area landscaped in a manner that integrates the parking area with the overall landscaping plan for the site, reduces the visibility of the parking area from off-site, particularly public roads, and pedestrian facilities.

**3.22.4** All new buildings or additions to existing structures shall be designed to fit the character of the immediate area with style, massing, lot placement, and scale similar to those presently existing.

**3.22.5** Historic features, including stonewalls, shall be preserved and integrated into the design of the project, where practical.

**3.22.6** Development shall be located on the site to minimize loss of productive farm and forestland

**3.22.7** Noise generated by operations shall not exceed 70db as measured at the property line.

### **3.23 COOLIDGE HOMESTEAD HISTORIC OVERLAY – CONDITIONAL USE STANDARDS**

**3.23.1** Except as may be provided under this section, a Zoning Permit shall not be issued by the Zoning Administrator for a development within this Area without Conditional Use Approval first being obtained from the Planning Commission. Development, as applied under this section means:

**3.23.1.1** Construction of a Building;

**3.23.1.2** Relocation of a Building or Structure;

**3.23.1.3** Alteration to the exterior of a building which changes its size, roof line, or exterior walls; and

**3.23.1.4** Erection or alteration of other permanent structures such as towers, and canopies, not otherwise exempt from this Ordinance.

**3.23.2** Persons seeking Conditional Use Approval, in addition to a standard application, shall provide information detailing the proposed design, its appropriateness to the Historic Area, a scaled drawing detailing the proposed construction or alteration, photographs, and other information relevant for proper consideration of the request.

**3.23.3** In granting Conditional Use Approval, the Planning Commission must find that the proposal substantially meets the review criteria set forth below.

**3.23.3.1** The height of new buildings or alterations is compatible with adjacent buildings.

**3.23.3.2** Materials: The compatibility of existing materials on the exterior walls in the immediate area shall be considered in the construction or alteration of a building.

**3.23.3.3** Architectural features, including windows, doors, and trim detail, prevailing in the immediate area shall be considered in the construction or alteration of a building. It is not intended that buildings precisely duplicate older buildings, but they take on the character or the nature and scale of details.

**3.23.3.4** Proportion: The relationship of width to height of facades of adjacent buildings shall be considered in the construction or alteration of a building.

**3.23.3.5** The visual pattern of walls and openings on the facade of immediate buildings shall be considered in the construction or alteration of building.

The Planning Commission shall not be overly restrictive in its judgment of plans of buildings or alterations of little historic value or structure not highly visible from public roads, except where such construction or alteration would seriously impair the historic or architectural value of surrounding buildings or area.

### **3.24 USE LIMITATIONS**

Notwithstanding other provisions of this Ordinance, the following uses may be regulated only with respect to location, size, height, building bulk, years, courts, setbacks, density of buildings, off-street parking, loading facilities, traffic, noise, lighting, landscaping, and screening requirements, and to the extent that regulations do not have the effect of interfering with the intended functional use:

- 3.24.1** State or community owned and operated institutions and facilities;
- 3.24.2** Public and private schools and other educational institutions and facilities;
- 3.24.3** Churches and other places of worship, convents, and parish houses;
- 3.24.4** Public and private hospitals;
- 3.24.5** Regional solid waste management facilities;
- 3.24.6** Hazardous waste management facilities for which notice has been received under 10 V.S.A. Section 6606a.

### **3.25 AFFORDABLE HOUSING**

The following provisions are enacted for the purpose of encouraging affordable housing while ensuring compliance with this Ordinance concerning land use:

- 3.25.1** The Planning Commission is authorized to modify or reduce by waiver setback distances and frontage requirements for long-term affordable housing projects upon determination that the resulting lot configurations results in retaining or enhancing the character of the neighborhood. In rendering its decision, the Commission shall take into consideration the design, location, of the housing project.
- 3.25.2** Permanent or perpetual affordable housing projects are eligible for an increase in 25% density above the standard lot area requirements for the District upon review and approval by the Commission.
- 3.25.3** Mixed use development incorporating affordable housing (e.g. use of upper stories of buildings for rental units) shall not be subject to lot area calculations under this Ordinance.

**3.26 RESIDENTIAL CARE AND GROUP HOMES**

A residential care or group home serving not more than six persons who are developmentally disabled or physically handicapped, shall be considered by right to constitute a one-family residence, provided that no such home is located within 1,000 feet of another such home.

**3.27 EQUAL TREATMENT OF HOUSING**

This Ordinance shall not have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing, except on the same terms and conditions as conventional housing is excluded.

**3.28 MOBILE HOME PARKS – CONDITIONAL USE STANDARD**

No person shall layout or otherwise establish, extend, modify, extend, or enlarge a mobile home park without first having obtained Conditional Use Approval from the Planning Commission and a Zoning Permit from the Zoning Administrator.

In reviewing an application, the Commission shall give consideration to the following requirements or standards:

**3.28.1** No mobile home lot shall be located within a floodway or floodplain unless elevated;

**3.28.2** A minimum of 8,000 square feet of lot area shall be provided for each mobile home plot. Common open space shall be at least 3,000 square feet per mobile home, exclusive of roads or utilities;

**3.28.3** Off-street parking shall be provided for each mobile home consisting of two spaces per mobile home;

**3.28.4** All mobile homes and accessory structures shall be at least twenty-five (25) feet apart, unless otherwise permitted by the Commission;

**3.28.5** Mobile home parks shall be conditionally permitted in all zoning districts, excepting Conservation Areas and the Coolidge Homestead Historic Area;

**3.28.6** Evidence shall be provided that the proposed park is in compliance with state wastewater and water supply rules;

**3.28.7** The site is reasonably suitable for a park and provides for an attractive residential environment that is safe and convenient for its residents; and

**3.28.8** All roads, driveways, and similar improvements leading to and from the park are suitable to permit safe two way vehicular access, including emergency vehicles.

## **4 ADMINISTRATION, ENFORCEMENT, APPEALS**

### **4.1 ZONING ADMINISTRATOR - GENERAL DUTIES**

The Zoning Administrator shall be nominated for a term of three years by the Planning Commission and appointed by the Board of Selectmen. The Zoning Administrator may be paid for his/her services, and may be removed for cause by the Board of Selectmen, after consultation with the Planning Commission. The Planning Commission may also appoint, with the approval of the Board of Selectmen, an Acting Zoning Administrator to act in the capacity of the Zoning Administrator when the Zoning Administrator is absent or unable to conduct his/her duties.

The Zoning Officer shall enforce literally the provisions of this Ordinance and in so doing shall receive applications, inspect premises with permission, maintain records, issue permits and perform other necessary tasks as may be necessary to carry out the provisions of this Ordinance.

### **4.2 ZONING PERMIT - GENERAL REQUIREMENTS**

**4.2.1** No Zoning Permits issued by the Zoning Administrator shall take effect until time for appeal has passed (15 days from issuance), or in the event a notice of appeal is properly filed, such permit shall not take effect until final adjudication of the appeal.

**4.2.2** Each Zoning Permit issued under this Ordinance shall contain a statement of the period of time within which an appeal may be taken. Within three (3) days following the issuance of a Zoning Permit, the Zoning Administrator shall deliver a copy of the permit to the Town Listers and post a copy in the Town Offices and within view from the public right-of-way most nearly adjacent to the subject property for a period of at least fifteen (15) days from date of issuance.

**4.2.3** In the event that the Zoning Administrator fails to act in writing with regard to an application for a Zoning Permit within thirty (30) days of filing of a complete application, a permit shall be deemed issued on the 31<sup>st</sup> day.

**4.2.4** All land development, as authorized by a Zoning Permit, shall be commenced within a period of one year, unless construction has been delayed by litigation to secure other permits or approvals. All projects shall be substantially completed within three years of the effective date of issuance, except as provided for below. At the request of the Permittee, the Zoning Administrator may extend the completion date up to an additional two years. In determining whether or not to grant the extension, the Administrator shall first find that the facts and conditions on which the original permit was based are substantially the same, the applicant has commenced construction of the project as originally approved, progress has been continuous, and the project has not been abandoned. A Zoning Permit complied with within the timeframes above shall not expire and shall run with the land. A Zoning Permit for land development not commenced or substantially complete as outlined above shall expire and become void. In the case of expiration, land development may only be continued following issuance of a new Zoning Permit.



**4.2.5** A fee for a Zoning Permit shall be required. The Board of Selectmen, in consultation with the Planning Commission, shall adopt a fee schedule for Zoning Permits that may from time to time be amended. Fees are for application, not approval.

### **4.3 ZONING PERMIT - RECORDING REQUIREMENTS**

Within thirty (30) days after a Zoning Permit has been issued, the Zoning Administrator shall deliver a copy of the Permit or a notice of the Permit to the Plymouth Town Clerk for recording pursuant to 24 V.S.A. Section 1154. Copies of all Permits shall also be on file with the Zoning Administrator. Notices of denials, variances, conditional use approvals, certificates of compliance and notices of violations shall also be filed in the land records and the permit file in the same manner.

For development within the Flood Hazard Overlay, the Zoning Administrator shall also maintain a record of:

- All permits issued in areas covered by this ordinance;
- An Elevation Certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including basement, of all new or substantially improved structures (not including accessory structures) in the Special Flood Hazard Area;
- All flood proofing and other certifications required under this regulation;
- All decisions of the Planning Commission (including variances and violations) and all supporting findings of fact, conclusions and conditions;
- Project Review Sheet and copies of any required permits from other authorities; and  
a
- Copy of the Certificate of Compliance when issued.

The Zoning Administrator shall submit to the Flood Insurance Administrator an Annual Report with respect to the administration and enforcement of the this ordinance. A copy of the Annual Report shall be submitted to the Vermont Department of Environmental Conservation.

### **4.4 CERTIFICATE OF COMPLIANCE**

In order that there be a determination that all buildings hereafter altered, enlarged, moved or constructed and all uses of land and structures are in accordance with the provisions of the Zoning Permit authorizing such activity, a Certificate of Compliance shall be required prior to the use of any land or building or part thereof (excepting accessory buildings or structures) that is issued a Zoning Permit.

A Certificate of Compliance shall be issued by the Zoning Administrator upon determination that the building or use authorized by the Zoning Permit is in substantial compliance with the standards and conditions of said Permit. In determining whether the building or use is in compliance, the Administrator shall not need to find that the development is fully

completed or finished. Rather, it shall be found that the building setbacks, use of the land, and other improvements existing on the site are as represented in the application.

A Certificate of Compliance shall be granted or denied within fourteen (14) days after written notice by the applicant to the Zoning Administrator, and shall remain in effect as long as such building or use is in compliance with the standards and conditions authorized by the Zoning Permit. The Applicant shall have the right to occupy said premises if the Zoning Administrator does not respond within the fourteen (14) day period. But, this shall not be conclusive evidence that the premises comply with the provisions of this Ordinance.

If the Zoning Administrator, after inspection, refuses to issue a Certificate of Compliance, he or she shall state the reason for such in writing and immediately give notice by to the applicant at the address indicated on the application and file this notice in the land records and the permit file. Appeals from decisions of the Zoning Administrator shall be taken to the Board of Adjustment.

#### **4.5 AGRICULTURAL, AND FARMING, AND FORESTRY - PERMIT NOT REQUIRED**

In accordance with State law (24 V.S.A. Section 4413), this Ordinance shall not restrict accepted agricultural or farming practices, or accepted management practices for silviculture, including the construction of farm structures, as such practices are defined by the Secretary of Agriculture or Commissioner of Forests, Parks, and Recreation, respectively under subsections 1021(f) and 1259(f) of Title 10 and section 4810 of Title 6.. No Zoning Permit for a farm building or structure is required; however, notification of the intent to build to the Zoning Administrator is required. Notwithstanding, setback requirements for structures shall apply. Contact the Administrative Officer for further information.

#### **4.6 INSPECTIONS**

Prior to entry on private property, the Zoning Administrator shall obtain permission of the owner and any other involved party of interest. Refusal to grant permission may result in denial of a permit or notice of alleged violation when access is needed for the ZA to make a determination that requires physical inspection.

#### **4.7 NON-CONFORMITIES**

No permit may be issued that would create a non-conformity, except through a variance. Existing non-conformities may not be made more non-conforming.

**4.7.1** A non-conforming use may be continued indefinitely, and may be changed to another non-conforming use upon conditional use approval by the Planning Commission, and only if the Commission finds that the degree of non-conformity of the new use is no greater in terms of impact (noise, traffic, etc.) than that of the original non-conforming use.

**4.7.2** Where a non-conforming use has been changed to a conforming use or discontinued for a period of one (1) year, it shall not be re-established as a non-conformity.

**4.7.3** Non-conforming structures in terms of any parking, unloading, required setback, lot area, coverage, building height, access road, or other applicable requirements of this Ordinance may be modified provided that such modifications shall not cause an increase

in an existing violation of any such requirement, and within the Flood Hazard Overlay shall comply with provisions for that area. Where a structure has less than the required front setback, additions that are lateral to the existing structure may be permitted so long as they are no closer to the road than the original structure, and provided that pre-existing non-conforming side and rear setback requirements are not reduced.

**4.7.4** Except for non-complying signs or development within the Flood Hazard Overlay (see Section 3.6.10), a non-complying structure which has been damaged or destroyed by any cause may be reconstructed to its prior condition, but only if such reconstruction is commenced within one (1) year and completed within two (2) years of such damage or destruction. If the nature of the damage or destruction is such that reconstruction within the foregoing time period would create a hardship, the Commission may permit such reconstruction within such time as it deems reasonable.

#### **4.8 ZONING BOARD OF ADJUSTMENT - CREATION AND POWERS**

The Zoning Board of Adjustment shall elect its own officers and shall adopt rules of procedure as it deems necessary to effect the provisions of this Ordinance in accordance with Section 4462 and 4463 of the Act.

Appeals of the decisions of the Board shall be made to Environmental Court.

#### **4.9 ZONING BOARD OF ADJUSTMENT - GENERAL DUTIES**

The Board shall discharge its duties in accordance with the procedures outlined in this Ordinance. The Board shall have the power to act on the following:

**4.9.1** To hear and rule on appeals concerning any order, requirement, decision, or determination made by the Zoning Administrator in the administration and enforcement of this Zoning Ordinance; and

**4.9.2** To hear and grant or deny a request for a variance or waiver.

The Board, in connection with any proceeding noted above, shall provide an opportunity for each Person wishing to achieve status as an interested person, as defined under Section 4465(b) of the Act. The Board shall keep a written record of the name, address, and participation of each of these persons.

#### **4.10 PLANNING COMMISSION - GENERAL DUTIES**

The Planning Commission shall discharge its duties in accordance with the procedures outlined in this Ordinance. The Planning Commission shall have the power to act on the following:

**4.10.1** To hear and approve or deny a request for a Conditional Use in accordance with Section 4.15;

**4.10.2** To hear and approve or deny a proposed Planned Unit Development in accordance with Section 5.3.

The Commission, in connection with any proceeding noted above, shall provide an opportunity for each Person wishing to achieve status as an interested person, as defined

under Section 4465(b) of the Act. The Commission shall keep a written record of the name, address, and participation of each of these persons.

#### **4.11 ZONING BOARD OF ADJUSTMENT - APPEALS**

An interested person may appeal any decision of the Zoning Administrator by filing a notice of appeal with the Secretary of the Board or with the Clerk of the municipality. If the appeal is made with respect to any decision or act of the Zoning Administrator, such notice of appeal must be filed within fifteen (15) days of the date of such decision or act, and a copy of the notice of appeal shall be filed with such Administrator.

Notice of appeal shall be in writing and shall include the name and address of the appellant, a brief description of the property with respect to which the appeal is taken, a reference to the regulatory provisions applicable to that appeal, the relief requested by the appellant and the alleged grounds why such requested relief is believed appropriate under the circumstances. If a stay of enforcement of the regulatory provisions is referred to in a notice of appeal, it may be granted or denied by the Board of Adjustment in accordance with Section 4466 of the Act.

**4.11.1** The Board of Adjustment shall set a date and place for a public hearing of an appeal under this Ordinance, which shall be within sixty (60) days of the filing of the notice of such appeal.

**4.11.2** The Board shall give public notice of the hearing, according to Section 4.17, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date.

#### **4.12 COMBINED HEARINGS**

In the event that more than one type of review is required for a specific project (conditional use approval and variance appeal), the Board, to the extent feasible, shall conduct a combined hearing to expedite the review. All decisions, however, shall be separate.

#### **4.13 ZONING BOARD OF ADJUSTMENT - VARIANCES**

On an appeal in which the appellant requests relief, a variance from the provisions of the Ordinance shall be granted by the Board if all of the following facts are found by the Board and specified in its decision.

**4.13.1** That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;

**4.13.2** That as a result of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

**4.13.3** That such unnecessary hardship has not been created by the appellant;

**4.13.4** That the variance, if authorized, will not alter the essential character of the district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;

**4.13.5** That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible from this Zoning Ordinance and from the Town Plan.

**4.13.6** For variances requested in the FHO, the criteria for granting variances found in 44 CFR, §60.6(a), of the National Flood Insurance Program regulations must be met.

In rendering a decision in favor of an appellant under this section 4.13, the Board may attach such conditions to a variance as it may in its discretion consider necessary and appropriate under the circumstances to implement the purposes of this Ordinance and the Town Plan. Any variance issued in the Special Flood Hazard Area will not increase flood heights, and will inform the applicant in writing over the signature of a community official that the issuance of a variance to construct a structure below the base flood elevation increases risk to life and property and will result in increased flood insurance premiums up to amounts as high as \$25 for \$100 of coverage. Such notification shall be maintained with a record of all variance actions.

The issuance of a variance shall not relieve the appellant of the obligation to obtain a Zoning Permit under Section 4.2 and such permit shall only be issued if the proposed land development complies with all other applicable provisions, except as varied by the Board of Adjustment. Any land development, as approved by the Board in such variance proceeding, shall not be commenced until such zoning permit is obtained.

The Board of Adjustment shall not be empowered to grant variances for land uses not otherwise enabled by this Ordinance.

Request for a variance for a structure that is primarily a renewable energy resource structure may be granted in favor of the appellant if all of the facts noted in 24 V.S.A. Section 4469 (b) are found and specified in the decision of the Board.

#### **4.14 CONDITIONAL USE APPROVAL**

##### **4.14.1 Application Submission Standards**

An application for Conditional Use Approval or Planned Unit Development Approval shall include submission of the following plans and supporting documents to the Commission, where appropriate.

**4.14.1.1** A map showing the general location of the property within the Town and its relationship to existing roads.

**4.14.1.2** A statement including the uses of adjacent property, and the names and current addresses of all abutting owners of land and those directly across from all roads to the property at issue.

**4.14.1.3** A statement and/or map sufficient to demonstrate the relationship of the proposed development to adjacent land uses, both existing and proposed.

**4.14.1.4** A proposed site plan, drawn to an appropriate scale, showing the location, height, spacing, uses, and architectural relationships of all existing and proposed buildings, open spaces, landscaping, utility lines, streets, drive-ways, off-street parking facilities, unique or manmade features and the physical conditions of the site.

**4.14.1.5** Quantitative data indicating the number and types of dwelling units and or other uses, parcel size, proposed coverage of buildings, structures, roads, driveways, and parking areas; area of proposed open space not to include roads, utilities, rights of way, parking and loading areas or small inter-structural yards.

**4.14.1.6** A development schedule indicating the approximate dates when construction of the project or stages of the project is expected to begin and be completed.

**4.14.1.7** Existing and proposed future ownership of the property involved.

**4.14.1.8** In the event land development is proposed involving the condominium form of ownership, proposed Declaration of Condominium and Condominium Association Bylaws.

**4.14.1.9** Notwithstanding the above, the Planning Commission may require additional documentation or information to assist in the review and evaluation of the proposal.

**4.14.1.10** Plat sketch for subdivision.

#### **4.14.2 Conditional Use Review**

No Zoning Permit shall be authorized or issued by the Zoning Administrator for any use listed as conditionally permitted within the various zoning Districts, unless the Planning Commission has first granted Conditional Use Approval. In granting approval, the Commission shall state findings of fact and its rationale how the proposed use meets each of the standards below and the general and specific standards prescribed for such uses in this Ordinance in Article 3. If a standard is not applicable the commission shall provide the basis for such a determination in its decision.

In its approval, the Commission shall find that the use will not result in an undue adverse effect on any of the following:

**4.14.2.1** Adequacy and safety of parking and loading facilities;

**4.14.2.2** Access for fire equipment, and on-site pedestrian safety;

**4.14.2.3** Adequacy of landscaping, screening and setbacks to achieve maximum compatibility with, and protection of other properties in the area;

**4.14.2.4** The protection of the utilization of renewable energy resources;

**4.14.2.5** The capacity of existing or planned community facilities;

**4.14.2.6** The character of the area affected as defined by the purposes of the zoning district and specific policies and standards of the Plymouth Town Plan;

**4.14.2.7** Traffic on roads in the vicinity;

**4.14.2.8** Utilization of renewable energy resources: and

**4.14.2.9** Other bylaws and ordinances in effect.

In granting such approval, the Commission may attach such additional reasonable conditions and safeguards as it deems necessary to implement the purposes of the Ordinance and the standards found in Section 3.

The Commission shall act to approve or disapprove in writing any such requested conditional use within forty-five (45) days after the date of the final public hearing held under this section. Failure to so act within such period shall be deemed approval.

#### **4.15 NOTICING PROCEDURES, HEARINGS AND DECISIONS**

A warned public hearing shall be required for Conditional Use review, Variances, Administrative Officer appeals, and Planned Unit Development, and similar proceedings before the Planning Commission or Board of Adjustment. Upon a determination by the Zoning Administrator of a completed application, a public notice for a warned public hearing to be conducted by the Board or Commission shall be given not less than fifteen (15) days prior to the date of the hearing. Posting of the notice shall be made by the applicant on the property within view of the closest public right-of-way by the applicant. Public hearing notice shall be made by the Town of Plymouth at the applicant's expense and shall consist of the following:

**4.15.1** Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in Plymouth;

**4.15.2** Posting of the notice in three or more public places within Plymouth, including the Town Clerk's Office;

**4.15.3** Written notification to the applicant and to owners of all properties adjoining the property subject to development, without regard to any public right-of-way. The notification shall include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the proceeding is a prerequisite to the right to take any subsequent appeal.

**4.15.4** Any hearing held under this section may be recessed from time to time, provided however, that the date and place of the reconvened hearing shall be announced at the hearing. Hearings may also be closed if additional hearings are needed and the date and time cannot be set. If the hearing is closed due to lack of needed information from the applicant, then the applicant must provide such information within 90 days or the request shall be denied.

All hearings held under this section shall be open to the public. Rules of evidence applicable at these hearings shall be the same as other contested cases as set forth in 3. V.S.A. Section 810.

**4.15.5** Based upon the testimony presented at the hearing(s), the Board or Commission shall deliberate and render a written decision, which shall include findings of fact, within forty-five (45) days after completing the hearing, in accordance with 4464 of the Act. If the Board or Commission fails to act within this period, it shall be deemed to have

rendered a decision in favor of the applicant or appellant and granted the relief requested on the last day of such period.

**4.15.6** The Board or Commission shall keep minutes of its proceedings, except deliberations, indicating the vote of each member upon each question or, if absent or failing to vote, indicating this, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk of the municipality as a public record. Deliberations may be called by the Chair after the close of the final hearing within the time to issue a decision, and require no public notice. Deliberations may exclude any person except the Board/Commission and such clerical or technical help as they may require. Decisions may be decided during deliberations, but once written and approved are public.

**4.15.7** All findings and actions of the Board/Commission shall be in writing and shall include the reasons for the action taken. Findings shall be detailed and in specific terms, discussing the basis of the decision, beyond such generalities as “in the interest of public safety, health and general welfare”. Statement of the facts upon which action is based shall appear in the decision.

#### **4.16 APPEAL TO ENVIRONMENTAL COURT**

An interested person who has participated in a proceeding before the Board of Adjustment or Planning Commission may appeal a decision rendered by either body to the Environmental Court. Participation in a local proceeding shall consist of offering through oral or written testimony, evidence or statement of concern related to the subject of the proceeding. Any such appeal shall be in accordance with 24 V.S.A. Section 4471.

#### **4.17 ENFORCEMENT AND PENALTIES**

It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance. Whenever any development occurs contrary to these regulations, the Zoning Administrator, in his/her discretion, shall institute appropriate action in accordance with the provisions of 24 V.S.A. §1974a or pursuant to 24 V.S.A. § 4451 or 24 V.S.A. § 4452 to correct the violation. No action may be brought unless the alleged offender has had at least a seven-day warning notice by certified mail. An action may be brought without the seven-day notice and opportunity to cure if the alleged offender repeats the violation after the seven-day notice period and within the next succeeding twelve months. The seven-day warning notice shall state that a violation exists, that the alleged offender has an opportunity to cure the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days.

For developments within the SFHA, if the development is still noncompliant after the opportunity to cure has passed, the Zoning Administrator shall submit a declaration to the Administrator of the NFIP requesting a denial of flood insurance. Section 1316 of the National Flood Insurance Act of 1968, as amended, authorizes FEMA to deny flood insurance to a property declared by a community to be in violation of their flood hazard area regulations. The declaration shall consist of: (a) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location, (b) a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance, (c) a clear statement that the public body making the declaration has authority to do so and a citation to that authority, (d) evidence that the



property owner has been provided notice of the violation and the prospective denial of insurance, and (e) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **5 PLANNED UNIT DEVELOPMENT (PUD)**

### **5.1 GENERAL INTENT AND PURPOSES**

The provisions for Planned Unit Development set forth below are intended to permit the development of larger parcels of land in such a manner as will result in the most efficient, aesthetic, and desirable use of such parcels; encourage a more creative approach to the development of such parcels than would otherwise result under this Ordinance; and to provide flexibility in the design and placement of buildings, open spaces, vehicular and pedestrian circulation and off-street parking areas so as to best utilize the features of the specific site.

In order to encourage innovation in design and layout and promote the efficient use of land, the Planning Commission may grant Planned Unit Development approval for development proposals subject to the standards and conditions set forth in this Ordinance.

### **5.2 PLANNED UNIT DEVELOPMENT APPROVAL - STANDARDS AND CONDITIONS**

In its review and approval of a proposed Planned Unit Development, the Commission shall find in its written decision that the Planned Unit Development meets all of the following criteria and/or standards:

**5.2.1** The application submitted satisfies all the requirements for submission of a Planned Unit Development application as set forth in Section 4.15;

**5.2.2** The Planned Unit Development involves only those Permitted or Conditional Uses as provided for in the Districts in which the project is proposed;

**5.2.3** The parcel size of the proposed Planned Unit Development must be at least 5 times the minimum lot size for the District in which the proposal is located.

**5.2.4** The setback requirements, as determined for the project in its entirety, and for any and all buildings, structures, or lot lines within the project, comply with all applicable setback requirements for the District or Districts within which the project is located, except as waived under 3.10;

**5.2.5** The total number of dwelling units and other uses shall not exceed the number or densities which would be permitted in the Planning Commission's judgment if the involved land were subdivided into lots in conformance with all applicable Ordinances for the District or Districts on which the project is located, except as waived under 3.10;

**5.2.6** Density Bonus - Notwithstanding the above, in order to encourage the most appropriate and efficient use of the involved land, the total number of dwelling units and other uses may be exceeded by up to twenty-five percent (25%). In granting any such requested density increase, the Planning Commission shall find that:

**5.2.6.1** The character, architectural features and siting variations incorporated in the project consists of factors which make a substantial contribution to the general intent and purposes of the PUD provision;

**5.2.6.2** Such variations are appropriate based upon, but not limited to, the following project amenities: (i) siting, visual focal points, use of existing physical features such

as topography, building orientation, variation in building groups such as clusters; (ii) design features, architectural styles, harmonious use of building materials, landscaping, and pedestrian ways; and (iii) extent and location of open space reservation relative to total project area, proposed plans for the use and management of such areas, and the degree of preservation of natural features for any unimproved areas;

**5.2.7** Projects are designed and arranged so as to provide both visual and acoustical privacy to residents of the development and the neighborhood;

**5.2.8** The design and layout of the project preserves any recognized historic sites or structures and to the greatest extent feasible any natural features or resources of the site;

**5.2.9** Adequate conditions and technical plans exist to insure the safe treatment of sewage and the provisions of a safe supply of drinking water for the project;

**5.2.10** The project has been designed so as to reduce or eliminate negative impacts on surrounding properties whether presently developed or not;

**5.2.11** The project is in conformance with any duly adopted Capital Budget, Plan or Program of the Town of Plymouth;

**5.2.12** A Property Owners' Association, organization or other legal entity will be established to own and maintain any common elements, including open spaces, utilities, and roads, and the power and authority of such organization be insured and protected by covenants running with the land;

**5.2.13** If the proposal involves a greater concentration of land uses within some section(s) of the development than upon others, such greater concentration shall be offset by a lesser concentration in other section or sections or by an appropriate reservation of common open spaces on the remaining lands by a grant of easement or covenant to the Town of Plymouth, private non-profit charitable conservation trust, or property owners' association or other legal entity;

**5.2.14** The project will not cause unreasonable traffic congestion, safety problems, or a significant reduction in the existing level of service on adjacent or connecting roads;

**5.2.15** The project will not result in a higher or earlier incursion of public costs for the extension, enlargement, or improvement to existing public facilities or services; or if such results are to be anticipated, the Applicant has made or has proposed to offer provisions acceptable to the Planning Commission for off-setting any added net public costs or early commitments of public funds necessitated by the proposed Planned Unit Development;

**5.2.16** To encourage maintenance or enhancement of forest resources, wildlife habitats, and critical resource areas for which the project has been designed so that areas of the total parcel are permanently set aside as undeveloped and for the purposes as set forth above.

### **5.3 PLANNED UNIT DEVELOPMENT - GENERAL PROCEDURES**

The Planning Commission welcomes all to preliminary discussions about this development option. It invites prospective applicants to meet informally with the Commission to learn how their project might be structured as a Planned Unit Development.

**5.3.1** Upon receipt of an application, the Zoning Administrator, in consultation with the Planning Commission, shall have fifteen (15) working days to ascertain if the application is complete or if any items require correction or completion, as described in Section 4.15.

**5.3.2** A request for Approval shall be scheduled for at least one Public Hearing held by the Planning Commission for the purpose of hearing comment and testimony on the proposed PUD within thirty (30) days from the date of acceptance of the completed application.

**5.3.3** The Planning Commission shall act to approve or disapprove the proposal by written decision setting forth both findings and conclusions of law within a period not to exceed 45 days from the date of the final public hearing. Failure to act within forty-five (45) days shall constitute approval of the PRD by the Planning Commission.

**5.3.4** The Planning Commission in its discretion may attach such reasonable conditions to its approval as it finds necessary to protect the public health, safety, and general welfare and to further the purposes of this Ordinance and 24 V.S.A., Chapter 117.

**5.3.5** The Planning Commission may require that a performance bond be furnished and filed with the Treasurer of the Town of Plymouth, or other forms of surety be provided, to guarantee that the various stages and elements of the total development will be constructed as planned and approved. Where public and/or private roads or other common amenities are to be constructed or acquired following erection of buildings or other structures, such financial guarantees shall be of sufficient amount to cover in full the estimated construction costs and engineering of such amenities.

**5.3.6** If the application results in land available for park, recreation, open space or other municipal purposes, the Planning Commission, as a condition to its approval, may establish such conditions on the ownership, uses, and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The Planning Commission may determine that a grant of easement or sale to the Town or qualified conservation organization is acceptable methods for meeting approval conditions.

**5.3.7** The Planning Commission, in its approval, shall limit the period of approval for a specific time period within which substantial construction shall commence, such period not to be in excess of four (4) years.

If prior to the expiration date for approval, the permittee on written notice to the Planning Commission, requests extension of the period of approval, the Planning Commission shall consider granting such request. In deciding whether to grant such extension or to fix the period thereof, the Commission shall consider the standards and conditions on which original approval was authorized and any new or changed conditions on the site or in

proximity to the site that potentially may affect the proposed project. The Planning Commission may consider such action with or without Public Hearing.

**5.3.8** No land development for which Planned Unit Development Approval has been granted shall commence unless the Zoning Administrator has issued a Zoning Permit for such land development.

**5.3.9** The Zoning Administrator shall issue a Zoning Permit following the submission of a complete application upon finding that the application is in substantial compliance with the requirements as applied for and approved by the Planning Commission.

**5.3.10** No material change to the project approved by the Planning Commission shall be permitted unless the Planning Commission grants, following public hearing, an amendment to the original approval and/or any preceding amendments thereto.

**5.3.11** No amendments to the original approval shall have the effect of extending the time period within which substantial construction must commence as set forth in Section 5.3.7 above.

**5.3.12** In the event that substantial construction has not been undertaken during the time period specified above, Planned Unit Development approval shall have no further effect and any Zoning Permits or amendments to the PUD approval shall be considered to have been canceled.

## 6 DEFINITIONS

For the purposes of this Ordinance, meanings of the words, terms, and phrases shall be interpreted as defined below and all other words shall be presumed to have their customary meaning. Any interpretation of words, terms, and phrases by the Zoning Administrator may be appealed to the Board of Adjustment for clarification. The Board shall base its interpretation on the following definitions, state statutes, the purpose of this Ordinance, and the need for reasonable and effective implementation of this Ordinance. The Board shall maintain a written record of its rulings to ensure consistent and uniform application of the terms of this Ordinance.

***Accessory Building or Accessory Use:*** A building or use customarily incidental and subordinate to the principal building or use located on the same lot.

***Agricultural Structure or Use:*** Any use of a structure or land for the raising, storage or maintenance of cattle or horses, growing crops or, trees or similar plants or animals. Examples: Dairy barns, stables, kennels, greenhouses, sugarhouses, or poultry houses. Per 24 V.S.A. Section 4413(d), no municipal permit shall be required for accepted agricultural practices. Agriculture primarily for the purpose of consumption by a single family shall not be considered commercial agriculture.

***Airport/Heliport:*** A location licensed by the FAA for private or commercial aircraft landing.

***Alteration:*** A structural change that increases the exterior height, width, or length of the building including a change of location of, or addition to, a building.

***Base Flood:*** A flood having a one percent chance of being equaled or exceeded in any given year.

***Base Flood Elevation (BFE)*** the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

***Bed & Breakfast:*** A building used as a dwelling unit having a capacity of no more than 17 paying guests for public lodging, providing room and/or meals for lodging guests only, and which does not materially change the character of the immediate area.

***Building:*** A structure having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals or chattel, excluding fences.

***Building Height:*** The vertical distance measured from the average elevation of the proposed finish grade around the building to the highest point of the structure, not including chimneys or smokestacks.

***Building/Structure, Non-Conforming:*** A building or structure, or part thereof, not conforming with this Zoning Ordinance covering dimensions, height, area, density, or off-street parking,

where such building or structure conformed to all applicable regulations prior to the enactment of this Ordinance.

**Cemetery:** A parcel of land used exclusively for the burial of humans.

**Certificate of Compliance:** A certificate issued by the Zoning Administrator certifying the applicant has followed all terms and conditions of the Zoning Permit, as granted.

**Commencement of Construction:** Construction of the first improvement to land or to a building or structure, including work preparatory to construction, such as clearing or road improvements, the act of which is incidental to a plan or intention to erect or make alterations to a building or structure, or divide land for sale or other means.

**Commercial Recreation Facility:** A principal use of land together with any accessory buildings which typically involves the sale of a service, including but not limited to tennis courts, golf courses, hiking trails, skating rinks, playfields, horse riding and driving, wildlife sanctuaries, cross-country skiing and outdoor swimming pools. The term specifically excludes outdoor movie theaters, firing ranges, bowling alleys, race tracks, motor bike, and ATV activities.

**Commerical Slaughterhouse/Rendering Plant:** A commercial operation for the slaughtering or rendering of animals, other than an exempted agricultural use.

**Conditional Use Approval:** A written decision granting approval to a use or structure by the Planning Commission following a public hearing.

**Corporate Retreat:** A facility used primarily for educational purposes for training and development of business executives, the total of which are not to exceed 24 persons at any one time.

**Coverage:** The percentage of lot area covered by a building or structure.

**Day Care Facility:** The principal use of a building or lot is to provide supervision, care, or meals, but not overnight lodging, for infants, children, handicapped and/or the elderly.

**Deck:** *A covered or uncovered addition to a building, attached to the building, and supported by such attachment and/or columns but lacking solid walls. Decks are counted in footprint and setback calculations.*

**Development:** means, for floodplain management purposes in the Flood Hazard Overlay, any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Outside of the FHO, it means regulated construction or reconstruction, site work in preparation for regulated construction, and regulated subdivision.

**District:** A part, zone or geographic area within the Town of Plymouth within which certain zoning or development regulations apply.

**Drive-In Stand:** A use of land or a building where the customer is serviced from a motor vehicle (e.g. bank, fast-food service, but excepting gas stations.)

**Driveway:** A private travelled way that serves no more than two principal buildings.

**Dwelling, Accessory:** a one-bedroom dwelling unit that is located inside, attached or within 50 feet of an owner-occupied one family dwelling. Such a unit shall be clearly subordinate to the one family dwelling, have sufficient wastewater capacity, not exceed 30 percent of the floor area of the one family dwelling, and comply with setback and parking requirements.

**Dwelling, One Family:** A building containing one dwelling unit.

**Dwelling, Two-Family:** A building containing two dwelling units.

**Dwelling, Multiple:** A building containing more than two dwelling units.

**Dwelling Unit:** A building or portion thereof, designed, constructed or used as separate living quarters for one household, and which includes facilities for food preparation, sleeping, and sanitary facilities.

**Existing manufactured home park or subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**Expansion to an existing manufactured home park or subdivision:** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FAA:** Federal Aviation Administration

**FCC:** Federal Communications Commission

**Fertilizer Plant:** A commercial operation for the manufacture of fertilizer, other than an exempted agricultural use.

**FHBM:** The Flood Hazard Boundary Map or an official map issued by the National Flood Insurance Administration (FIA), where boundaries of the flood have been designated in Zones.

**FIA:** Federal Insurance Administration

**Fluvial erosion:** *The lateral movement of a stream or river.*

**Flood fringe:** The portion of the floodplain lying outside of the floodway where water may be slower and more shallow. The floodway and flood fringe together comprise the base floodplain or special flood hazard area.



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

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

**Floodproofed or Floodproofing:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or property, including water and sewer facilities.

**Floodway:** The channel of a river, stream, 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 one foot at any point.

**Filling Station:** A retail enterprise where motor vehicles are serviced or repaired. The term also refers to gas station or service station.

**Footprint:** that area covered by the building, regardless of whether that portion touches the ground.

**Forestry Use:** Land which is managed and used for the cultivation and harvesting of trees.

**Guest House:** A building used as a dwelling unit having a total capacity of not more than 4 paying guests for public lodging, providing rooms and/or meals for lodging guests only, and which does not materially change the character of the immediate area.

**High Elevation:** Land above 2,500 feet elevation.

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

**IESNA:** Illuminating Engineering Society of North America; a professional society that provides guidelines to establish minimum light levels and recommend ratios that create even lighting.

**Industrial (Light):** Any use of land or structures for the purpose of manufacturing, processing or storing goods which after applying the standards of the Ordinance would reasonably be carried out on ½ acre of land. Examples: small assembly operations and craft workshops.

**Industrial (Medium/Heavy):** Any use of land or structures for the purpose of manufacturing, processing or storing goods which after applying the standards of the Ordinance would reasonably require more than ½ acre of land. Examples: sawmills, warehouses or large manufacturing processes.

**Interested Party:** Anyone lawfully afforded the right to appeal a decision or act of the Zoning Administrator as defined under 24 V.S.A. Section 4465(b).

**Junk Yard:** Any place of outdoor storage or deposit which is maintained, operated or used in connection with a business for storing, keeping, processing, buying or selling junk or scrap. In addition, the term means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping four or more junk motor vehicles that are visible from a road. This does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

**Land Development:** The division of a parcel into two or more parcels; the construction, reconstruction, relocation or enlargement of any building or structure, or any mining, excavation or landfill; or any change in use of any building or other structure or land or extension of use of land.

**Lodging:** A building, other than a bed and breakfast, such as a motel/hotel containing whose primary purpose is the renting of rooms for transient lodging which may also provide meals and other incidental amenities for guests and the general public.

**Lot:** A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law; to be used, developed or built upon as a unit. A lot shall not be divided by a public road as defined by 19 V.S.A., Section 1.

**Lot Area:** The total area within the property lines of the lot, excluding public road rights of way.

**Lot Depth:** The distance, measured at right angles to the centerline, from the centerline of the traveled portion of the Town road, state road or right-of-way to the closest point of the rear lot line.

**Lot Frontage:** That portion of a lot which is adjacent and parallel to a public road or public waters as defined by 19 V.S.A., Section 1 or a private right-of-way as approved by the Planning Commission.

**Lot Line:** A line of record bounding one lot from an adjoining lot or from a Town or State road right-of-way, water body or railroad line.

**Lot Width:** The minimum distance across the lot at any point measured parallel to the frontage side of the lot.

**Lowest Floor:** Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR, §60.3.

**Manufactured home:** a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level:** Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a Town's Flood Insurance Rate Map are referenced.

**Mobile Home:** A prefabricated dwelling unit which is designed to be moved on wheels and upon arrival at the site, is complete, and ready for occupancy, and which contains a conventional water supply and waste disposal system.

**Mobile Home Park:** Any parcel of land under single ownership on which two or more mobile homes are parked and occupied for living purposes.

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

**New manufactured home park or subdivision:** a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

**Nuisance:** An undue interference with the enjoyment and use of property.

**Parking Space:** A defined space which is at least nine feet wide and eighteen feet long, outside of the right-of-way or driveway, used for the parking of one motor vehicle and which affords practical access to the road or right-of-way and which is graveled or is paved sufficiently to permit year-round use.

**Planned Unit Development:** An area for which the design and development promotes the most appropriate use of the land, facilitates the adequate and economical provision of streets and utilities, and preserves the natural and scenic qualities of the land. An area of land, controlled by a land-owner, to be developed as a single entity for a number of dwelling units and other uses, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the Ordinance established in any one or more zoning districts.

**Principal Building:** A building, or portion thereof, in which is conducted the principal use of the lot on which it is located.

**Principal Use:** The primary or predominate use of any lot.

**Professional Office:** An office where business of a service nature is provided principally by the owner and generally not involving multiple employees or partners. Examples include a doctor's or real estate broker's office or an insurance office.

**Public Building:** A building owned by a municipality, county, state, or federal government or a quasi-public building that is property tax exempt or qualifies for exemption, such as a church, private school, medical clinic, hospital, library or museum.

**Public Land:** Land owned in fee by the State of Vermont, Town of Plymouth or other political subdivision.

**Public Open Space:** Public or community owned land available for limited public or park-like uses.

**Public Utility:** A business or service which is engaged in regularly supplying the public with a commodity such as telephone, electric, sewage or water service.

**Race Track:** A public or private area for the racing of vehicles or animals other than incidental to a home or farm.

**Recreational vehicle:** 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 a temporary living quarters for recreational, camping, travel, or seasonal use.

**Resort:** A combination of uses under affiliated ownership that is customary to resort type development, including but not limited to public or private clubs, fitness centers, restaurants, spas, conference facilities, lodging, maintenance facilities, indoor and outdoor recreation and associated incidental retail.

**Riparian buffer**

**Road:** A public or private travelled way that is either a public road or a private one that serves at least three principal buildings. If the type of road is unspecified it is to mean public and private road.

**Rural Small Enterprise/Home Occupation:** Any occupation customarily carried on by a resident at his/her residence, provided that the use occupies a minor portion of the residence and/or accessory structures, does not materially change the character of the area and is clearly secondary to the principal use as a residence. Home occupations include computer services and home offices. See Section 3.5, *Rural Small Enterprise* for additional clarification of this term.

**School:** Includes public, private, and nursery school, college, university and accessory uses, but shall not include commercially operated schools of business, dancing, driving, beauty culture, or similar business establishments.

**Setback:** The minimum horizontal distance of a building or structure, or any portion thereof, required for its location from the respective lot line or road centerline where a lot abuts a public or private road or right of way.

**Setback, Front:** The distance from the centerline of the travelled portion any road to the nearest part of a building or structure.

**Setback, Rear:** The distance between the rear lot line and the nearest portion of any building or structure.

**Setback, Side:** The distance from the side lot line to the nearest part of any building or structure.

**Sign:** Any surface, fabric, device or display which bears letter, pictorial or sculptured matter, designed to convey information visually and which is exposed to public view. The term shall include all structural members and related elements composed to form a single unit. National and state flags, window displays, athletic scoreboards, and governmental announcements are not signs.

**Sign Area:** The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure.

**Sign, Business and Public Building:** A structure which calls attention to and/or acts as an outdoor display for an establishment, property, or the services and products provided therein.

**Sign, Instructional:** A structure which is used to direct the user of the premises for off-street parking, traffic control, pedestrian areas, loading docks, safety zones or other similar purposes.

**Sign, Permanent:** Any surface, fabric, device or display which bears letter, pictorial or sculptured matter designed to convey information visually and which is exposed to public view. The term shall include all structural members and related elements composed to form a single unit.

**Sign, Temporary:** A structure which is used to advertise or call attention to a special sale, event, auction, campaign drive, etc., such sign to be erected for a period not to exceed 21 days within one calendar year.

**Sign, Real Estate:** A structure which is designed or used to advertise or call attention to real estate available for sale or lease erected on premises offered for sale or lease.

**Special Flood Hazard Area:** the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated a Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the Flood Insurance Rate Map (FIRM), Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, AR/A, VO or V1-30, VE, or V. For purposes of these regulations, the term “special

flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

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

**Structure:** An assembly of materials with fixed location on or below the ground, or attached to an object having an affixed location on the ground including, but not limited to, towers, dish antennae; but excluding mailboxes, fences, roads or driveways, underground utilities and structures explicitly exempted by this ordinance.

**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. *Structure*, for insurance purposes, means: (a) A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; (b) A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or (c) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws. For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in (c) of this definition, or a gas or liquid storage tank.

**Structure, Non-Complying:** A structure, or part thereof, not in conformance with the Plymouth Zoning Ordinance covering building height, area, yards, density or off-street parking requirements where such structure conformed to all applicable laws and regulations prior to the enactment of this Ordinance.

**Structure, Temporary:** A structure for accessory use, without a permanent foundation or footing and which is removed when the designated time period, activity, or use for which it was erected has ceased.

**Subdivision, Land:** The act of dividing a parcel of land by sale, gift, lease, mortgage foreclosure, court ordered partition or the filing of a plot plan in the Town Records where the act creates or is intended to create two or more lots.

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

**Substantial improvement:** any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**Surface Water:** Any year-round body of water such as brooks, streams, rivers, ponds or lakes.

**“Top of Bank”** means that vertical point along a stream bank where an abrupt change in slope is evident. For streams in wider valleys it is the point where the stream is generally able to overflow the banks and enter the floodplain. For steep and narrow valleys, it will generally be the same as the top of slope.

**Tower:** A structure more than 20 feet in height above the ground elevation built for the purpose of supporting, elevating, or placement of antennas for broadcast services or wireless services.

**Use, Conditional:** Any of the various uses in the zoning districts, which requires approval from the Planning Commission prior to the issuance of a Zoning Permit.

**Use, Non-Conforming:** A use of a building or land legally existing at the time of the adoption of this Ordinance, or any amendment thereto, and which is not an allowable use in the district in which it is located.

**Use, Permitted:** A use of land or a structure which has been approved by the Zoning Administrator on finding that the proposed use is in conformity with the requirements with this Ordinance.

**Vantage Point:** A point located on a public road or public water body in Plymouth from which a proposed wireless communication facility will be visible.

**Variance:** A deviation from the strict application of the provisions of this Ordinance authorized by the Zoning Board of Adjustment.

**Violation:** the failure of a structure or other development to be fully compliant with this Ordinance, which contains the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR, §60.3 is presumed to be in violation until such time as that documentation is provided.

**Wind or Solar Generation Facility:** A tower, pole, guy wire, or related fixture intended for use in the generation of electricity using wind as an energy source; the construction or improvements of a road, trail, or structure incidental to the facility.

**Wireless Communication Facility:** A tower, pole, antenna, guy wire, or related fixture intended for use in connection with transmission or receipt of radio or television signals or any other electromagnetic spectrum-based transmissions/reception; the construction or improvement of a road, trail, building, or structure incidental to a telecommunications facility. This definition does not include satellite receivers less than 2 feet in diameter for home use.