

# PLYMOUTH INTERIM ZONING ORDINANCE

**Interim Zoning  
Adopted  
October 22, 2007**

Interim Revisions to comply with  
National Flood Insurance Program (NFIP) standards

*Interim Zoning will expire on November 12<sup>th</sup>, 2009  
and will revert to 1/29/2007 Zoning.  
Interim Zoning may be extended for one year by the Selectboard.*

**Zoning  
Adopted  
January 29, 2007**

This Ordinance was developed by the Plymouth Planning Commission with assistance from the  
Two Rivers-Ottawaquechee Regional Commission, Woodstock, VT.



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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.

## **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 upon date of their adoption at a regular or special Town meeting.

## **1.5 INTERPRETATION**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Except for Section 4413(c) of the Act, and where this Ordinance specifically provides to the contrary, it is not intended to repeal or annul, or in any way impair any regulations or permits previously adopted or issued. However, where this Ordinance imposes a greater restriction than the Vermont Statutes with respect to the use of a structure or land, the provisions of this Ordinance shall control.

## **1.6 SEPARABILITY**

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 dated July 1973 and revised March 4, 1991 is hereby amended in its entirety.

## **2 ZONING DISTRICTS**

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

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

<b>VILLAGE AND HAMLET</b>	<b>VH</b>
<b>RURAL DENSITIES</b>	
• <b>Rural Density Two Acres</b>	<b>RD2</b>
• <b>Rural Density Five Acres</b>	<b>RD5</b>
• <b>Rural Density Ten Acres</b>	<b>RD10</b>

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 of 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 an Administrative Permit from the Plymouth Land Use Administrator.

No permit shall be required for alterations to the interior of a building unless they are made for the purpose of equipping it for a substantially different use. Minor or superficial changes to the exterior of a structure do not require a permit. Alterations or enlargements shall not be made which would make the structure non-conforming or more non-conforming.

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. Conditional use approval by the appropriate municipal panel is required for:

1. New buildings,
2. Substantial improvement of existing buildings, and
3. Development in a floodway

prior to being permitted by the administrative officer. All development and subdivisions shall be reviewed to assure that such proposals minimize potential flood damage, public facilities and utilities such as sewer, gas, electrical, and water systems are constructed so as to minimize flood damage, and adequate drainage is provided to reduce exposure to flood hazards.

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

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

#### **VILLAGE AND HAMLET**

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

#### **RURAL DENSITIES**

To relate and guide density of rural settlement to the physical limitations imposed by the land, thus minimizing potential health problems and 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.

### **2.3 BASE 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 ESTABLISHMENT OF OVERLAY ZONING DISTRICTS AND MAP**

For the purpose of this Ordinance, in addition to the Base Zoning Districts, the following Overlay Zoning Districts are hereby established within the Town of Plymouth:

<b>SHORELAND AREA OVERLAY</b>	<b>SL</b>
<b>FLOOD HAZARD PROTECTION OVERLAY</b>	<b>FH</b>
<b>COOLIDGE HOMESTEAD HISTORIC AREA OVERLAY</b>	<b>CHH</b>

Overlay zones have the same permitted and conditional uses and other requirements of the underlying zone, except where the overlay has more stringent requirements, which shall then override any more lenient standards in the underlying district.

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

SL - the Shoreland area depicted on the zoning map covering lands within 1,000 feet of Amherst Lake, Echo Lake, Colby Pond, Black Pond, and Woodward Reservoir.

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.

CHH - the Coolidge Homestead Historic Area Map, dated June 2002

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

If uncertainty exists with respect to the boundary of any Zoning 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 shall constitute proof.

## **2.6 USES EXEMPT FROM THIS ORDINANCE**

The following uses outside of the FH Overlay District (Special Flood Hazard Areas) are exempt under this Ordinance, provided they comply with setback requirements, and accordingly, Zoning Permits shall not be required for the following:

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;
2. 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;
3. interior remodeling not connected with any change in use and that does not increase the number of bedrooms;
4. Public auctions, garage sales, or yard sales not exceeding four (4) consecutive days or more than ten (10) days in a calendar year;
5. Accepted agricultural and forestry practices, including construction of farm structures (See Section 4.5);
6. Exempt or temporary signs;
7. Public utility poles and fixtures;
8. Fences or walls;
9. Satellite receiving dishes if attached to a building;
10. Structures without water hook-ups, for temporary or intermittent occupancy such as tents or self-contained travel or camper trailers;
11. Fuel or propane storage tanks not used for commercial purposes;
12. Small structures, but not including signs, less than thirty-two (32) cubic feet in volume;
13. Shelters less than fifty (50) square feet in area and less than twelve (12) feet in height;
14. Work incidental to the development of non-commercial trails;
15. temporary storage in box trailers, storage containers, and other means of storage which are in compliance with setbacks and are temporary (not exceeding 6 consecutive months);
16. registered motor homes, campers and travel trailers 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;
17. ponds under 1 acre;
18. Removal of earth resources incidental to construction of a building, access to a lot, public road construction, or the operation of a cemetery.
19. public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248.

## **2.7 VILLAGE AND HAMLET DISTRICT**

### **A. Permitted Uses**

The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and Two Family Dwelling
2. Accessory Dwelling Unit
3. Public and Quasi-Public Building
4. Boathouses
5. Piers, docks, and floats providing ordinary navigation is not impeded
6. Accessory Building or Structure
7. Home Occupation
8. Public and Private Open Space
9. Outdoor Signs

### **B. Conditional Uses**

The following uses are permitted upon granting Conditional Use Approval by the Planning Commission and the issuance of a Zoning Permit by the Zoning Administrator:

1. Multi-Family Dwelling not exceeding 12 dwelling units per building
2. Commercial Uses
3. Industrial Uses
4. Commercial Recreation Facilities
5. Public Utilities
6. Wireless Communications Facilities
7. Land Filling
8. Tourist Home/Lodge
9. Subdivision
10. Dams, Ponds, and Impoundments

### **C. Area, Land, and Structural Requirements**

- |                                  |                          |                                      |
|----------------------------------|--------------------------|--------------------------------------|
| 1. Lot Area Minimum              | <input type="checkbox"/> | One acre for each principal use;     |
| 2. Lot Frontage Minimum          | <input type="checkbox"/> | 85 feet;                             |
| 3. Front Setback Minimum         | <input type="checkbox"/> | 40 feet from the centerline;         |
| 4. Side and Rear Setback Minimum | <input type="checkbox"/> | 15 feet from the property line.      |
| 5. Building Height Maximum       | <input type="checkbox"/> | 35 feet, except for farm structures. |

## **2.8 RURAL DENSITIES**

### **RURAL DENSITIES TWO ACRE DISTRICT RD2**

#### **A. Permitted Uses**

The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and Two Family Dwelling
2. Accessory Dwelling Unit
3. Public and Quasi-Public Building
4. Boathouses
5. Piers, docks, and floats providing ordinary navigation is not impeded
6. Accessory Building or Structure

7. Home Occupation
8. Public and Private Open Space
9. Outdoor Signs

**B. Conditional Uses**

The following uses are permitted upon granting Conditional Use Approval by the Planning Commission and the issuance of Zoning Permit by the Zoning Administrator:

1. Multi-Family Dwelling not exceeding 12 dwelling units per building
2. Rural Small Enterprise
3. Commercial Recreation Facilities
4. Public Utilities
5. Wireless Communications Facilities
6. Wind Generation Facilities
7. Mobile Home Park
8. Tourist Home/Lodge
9. Planned Unit Development
10. Subdivision
11. Land Filling
12. Dams, Ponds, and Impoundments

**C. Area, Land, and Structural Requirements**

- |                                   |  |
|-----------------------------------|--|
| 1. Lot Area Minimum               | <input type="checkbox"/> Two acres for each principal use;                         |
|                                   | <input type="checkbox"/> 10,000 square feet for each additional attached dwelling. |
| 2. Lot Frontage/Lot Width Minimum | <input type="checkbox"/> 150 feet  |
| 3. Front Setback Minimum          | <input type="checkbox"/> 60 feet from the center line.                             |
| 4. Side and Rear Setback Minimum  | <input type="checkbox"/> 20 feet from the property line.                           |
| 5. Building Height Maximum        | <input type="checkbox"/> 35 feet, except for farm structures.                      |

**RURAL DENSITIES FIVE ACRE DISTRICT RD5**

**A. Permitted Uses**

The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and Two Family Dwelling
2. Accessory Dwelling Unit
3. Public and Quasi-Public Building
4. Boathouses
5. Piers, docks, and floats providing ordinary navigation is not impeded
6. Accessory Building or Structure
7. Home Occupation
8. Public and Private Open Space
9. Outdoor Signs

**B. Conditional Uses**

The following uses are permitted upon granting Conditional Use Approval by the Planning Commission and issuance of a Zoning Permit by the Zoning Administrator:

1. Multi-Family Dwelling not exceeding 12 dwelling units per building
2. Rural Small Enterprises
3. Extraction of Sand, Gravel, or Mineral for commercial sale

4. Commercial Recreation Facilities
5. Public Utilities
6. Mobile Home Park
7. Wireless Communications Facilities
8. Land Filling
9. Wind Generation Facilities
10. Tourist Home/Lodge
11. Dams, Ponds, and Impoundments
12. Subdivision

**C. Area, Land, and Structural Requirements**

1. Lot Area Minimum  Five acres for each principal use  
(\*See Section 3.9 for Alternatives);
2. Lot Frontage/ Lot Width Minimum  300 feet
3. Front Setback Minimum  80 feet from centerline;
4. Side and Rear Setback Minimum  25 feet from the property line.
5. Building Height Maximum  35 feet, except for farm structures.

**RURAL DENSITIES TEN ACRE DISTRICT RD10**

**A. Permitted Uses**

The following uses may be permitted upon issuance of a Zoning Permit by the Zoning Administrator:

1. One and Two Family Dwelling
2. Accessory Dwelling Unit
3. Public and Quasi-Public Building
4. Boathouses
5. Piers, docks, and floats providing ordinary navigation is not impeded
6. Accessory Building
7. Home Occupation
8. Public and Private Open Space
9. Outdoor Signs

**B. Conditional Uses**

The following uses are permitted upon granting Conditional Use Approval by the Planning Commission and issuance of a Zoning Permit by the Zoning Administrator:

1. Multi-Family Dwelling not exceeding 12 dwelling units per building
2. Rural Small Enterprises
3. Extraction of Sand, Gravel, or Mineral for commercial sale
4. Commercial Recreation Facilities
5. Public Utilities
6. Mobile Home Park
7. Wireless Communications Facilities
8. Land Filling
9. Wind Generation Facilities
10. Tourist Home/Lodge
11. Subdivision
12. Dams, Ponds, and Impoundments

### C. Area, Land, and Structural Requirements

1. Lot Area Minimum  Ten acres for each principal use  
(\*See Section 3.9 for Alternatives);
2. Lot Frontage/ Width Minimum  300 feet;  
 Along a Class 4 Town Road-500 feet.
3. Front Setback Minimum  100 feet from the centerline;
4. Side and Rear Setback Minimum  50 feet from the property line.
5. Building Height Maximum  35 feet, except for farm structures.

## 2.9 SHORELAND AREA OVERLAY SL

Overlay zones have the same permitted and conditional uses and other requirements of the underlying zone, except where the overlay has more stringent requirements, which shall then override any more lenient standards in the underlying district.

### A. Permitted Uses

None.

### B. Conditional Uses

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

### C. Area, Land, and Structural Requirements

All minimum standards of the underlying district relating to the Area, Land, and Structural requirements of permitted and conditional uses shall apply within the Shoreland Area Overlay.

In addition, the following requirements must also be met:

**Minimum Shoreland Frontage** - All planned residential development, hotels, motels, mobile home parks, multiple unit dwellings, and travel trailer parks that are providing shoreland access must provide a minimum shoreline frontage of 75 feet. Additional shoreline frontage of five (5) feet per room, space or dwelling unit must also be provided. Single family dwellings located on the lake front shall have a minimum shoreline frontage of 75 feet.

**Minimum Shoreline Setback** - 75 feet from the shoreline except for boathouses, piers, docks, and floats.

**Natural Shore Cover** - The cutting of trees in a strip paralleling the shoreline and extending 50 feet inland from all points along the shoreline shall be restricted to the following provision: no more than 50% (fifty percent) of the trees 4 inches and over in diameter may be cut. For any cutting or clearing, an attempt must be made to preserve the natural shrubbery and vegetation in order to screen (as viewed from the lake) cars, dwellings, and accessory structures, except boathouses.

The remaining area of the building site, that is, the area behind the aforementioned 50-foot strip, shall also have no more than 50% (fifty percent) of the trees 4 inches and over in diameter cut. The area required for access and for the structure or structures shall not be included when figuring this remaining area.

Shore cover removal shall not apply to the removal of dead, diseased, or dying trees which may be removed, or to silvicultural thinning upon recommendation of the County Forester. For any cutting or clearing, an attempt must be made to preserve the natural shrubbery and

vegetation in order to screen (as viewed from the lake) cars, dwellings, and accessory structures, except boathouses.

Commercial Forestry from the inland edge of the 50-foot strip is permitted where under the direction of the County Forester.

## **2.10 FLOOD HAZARD PROTECTION OVERLAY “FH”**

### **A. Purpose**

To lessen or avoid the hazards to persons and the damage or loss to property caused by floods; to ensure wise use and conservation of lands immediate to rivers and streams. It is also the intent to regulate development within identified flood hazard areas in accordance with state and federal laws in order to enable property owners to remain eligible for flood insurance through the National Flood Insurance Program.

### **B. Records**

The Zoning Administrator shall maintain a record of:

1. All permits issued and denied for development in areas of special flood hazard;
2. The as-built elevation certificate (consistent with the datum of the elevation on the NFIP maps for the community) of the lowest floor, including basement, of all new or substantially improved buildings;
3. The elevation (consistent with the datum of the elevation on the NFIP maps for the community) to which buildings have been floodproofed;
4. All floodproofing certifications required under this regulation; and
5. All variance actions, including justification for their issuance.

### **C. Board of Adjustment**

1. Upon receiving an application for a Permit under this Ordinance, the ZBA shall, prior to holding a hearing and rendering a decision thereon, obtain from the applicant the following:
  - a. Base flood elevation data for all subdivisions and other proposed new developments;
  - b. The elevation, in relation to mean sea level, of the lowest habitable floor, including basement, of all new construction or substantial improvement of structures;
  - c. Where floodproofing is used in lieu of elevation, the elevation, in relation to mean sea level, to which any structure or substantial improvement has been floodproofed;
  - d. Certification from a registered professional engineer or architect that the floodproofed structure meets the floodproofing criteria of subsection 9.1 of the National Flood Insurance Program, and
  - e. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
2. Where available; i.e., Zone A1-A30, AE and AH; 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. In areas where base flood elevations and floodway limits have not been provided by the National Flood Insurance Program in the Flood Insurance Study and accompanying maps, base flood elevations and floodway data provided by FEMA or available from State or Federal agencies or other sources, shall be obtained and utilized to administer and enforce these regulations.

4. 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.
5. Prior to issuing a permit in areas of special flood hazard, a copy of the application and supporting information shall be submitted by the administrative officer 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.
6. In areas of special flood hazard, development shall be reviewed by the administrative officer or the appropriate municipal panel to assure that all necessary permits have been received from those government agencies from which approval is required by Federal, State or Municipal law.

#### **D. Development Standards**

1. Floodway Areas - Development, except for minor 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 increase in flood levels during the occurrence of the base flood.  
Until a regulatory floodway has been designated, no new construction, substantial improvements, or other development 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 more than one foot at any point within the community.
2. All Development:  
All Development shall be designed to be reasonably safe from flooding and: (a) to minimize damage to the proposed development and to public facilities and utilities, and (b) to provide adequate drainage to reduce exposure to flood hazards, (c) designed (or modified) and anchored to resist flotation, collapse, or lateral movement; (d) be constructed with materials resistant to flood damage; (e) be constructed by methods and practices that minimize flood damage, (f) 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.
3. The flood carrying capacity of the fringe area and any watercourse therein shall be maintained.
4. New and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
5. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
6. Residential Development

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

(b) Manufactured homes to be placed and existing manufactured homes to be substantially improved that are: (i) located in a new manufactured home park or subdivision, outside of a manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in a manufactured home park or subdivision which has incurred substantial damage from a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to no less than one 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. (ii) located in an existing manufactured home park, where elevating a replacement home to or above base flood elevation is not possible, the lowest floor shall be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 48 inches in height above grade and be securely anchored to an adequately anchored system to resist floatation, collapse, and lateral movement.

(c) Residential 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.

7. Subdivisions:

(a) New subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions) that are greater than 50 lots or 5 acres, whichever is the lesser, shall include base flood elevation data.

(b) Subdivisions (including manufactured home parks) shall be designed to assure: (i) such proposals minimize flood damage within the flood-prone area, (ii) all public utilities and facilities serving subdivisions, such as sewer, gas, electrical, and water systems, be located and constructed to minimize or eliminate flood damage; and (iii) adequate drainage be provided within subdivisions to reduce exposure to flood hazards.

8. Non-residential development

The lowest floor, including basement, of all new buildings shall be at least one (1) foot above base flood level. Existing buildings to be substantially improved for non-residential purposes shall either (i) be one foot above BFE or (ii) be designed to be waterproofed ~~tight~~ below one foot above the base flood elevation with walls substantially impermeable and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A permit for a building proposed to be floodproofed shall not be issued until a registered professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.

9. Enclosed Areas Below the Lowest Floor

(a) Enclosed areas below the lowest floor which are subject to flooding shall be used solely for parking of vehicles, building access, or storage.

(b) All new construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

(c) 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 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.

10. Recreational vehicles placed on sites within the special flood hazard area shall either be (i) on site for fewer than 180 consecutive days, (ii) be fully licensed and ready for immediate use, or (iii) meet the same standards of elevation for structures as described above.
11. Construction within the special flood hazard area may not result in loss of flood storage capacity, therefore no net fill below the base flood elevation will be allowed, although off-site compensatory storage, at a hydraulically equivalent site, may be allowed.
12. No structure shall be placed closer than fifty (50) horizontal feet from the top of any river or perennial stream bank.

The ZBA shall attach such additional conditions to the granting of a permit as are necessary to meet the purposes and flood hazard area management requirements of this Ordinance.

#### **E. Conditionally Permitted Uses**

All uses as permitted or conditionally permitted within any of the Base Zoning Districts and located within the Flood Protection Overlay District shall be considered conditionally permitted uses.

#### **F. Prohibited Uses**

Junkyards, landfills, and storage facilities for chemicals, explosives, flammable liquids or other toxic materials shall be prohibited in the special flood hazard area.

#### **G. Warning of Disclaimer of Liability**

This Ordinance does not imply that land outside the areas of special flood hazard or land use permitted within 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 thereunder.

#### **H. Non-Complying Structures**

The Board of Adjustment may, after public notice and hearing, approve the repair relocation, replacement, or enlargement of a non-complying structure within a regulated flood hazard area, subject to compliance with the applicable considerations and requirements of Section D 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:

1. The Board 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.
2. The Board finds that the repair, relocation, or enlargement of a non-complying residential or non-residential structure will not result in any increase in flood levels, threaten the health, safety, and welfare of the public or other property owners.
3. 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.

4. An existing non-complying structure destroyed by fire, flood, or similar causes shall, if to be replaced or rebuilt, comply with the National Flood Insurance requirements and this Ordinance.
5. A copy of such permit shall be affixed to the copy of the deed of the conserved property on file in the Town Clerk's office.

#### **I. Annual Report to Federal Insurance Administration**

1. The Zoning Administrator shall submit to the Administrator an Annual Report with respect to the administration and enforcement of the flood hazard area Regulations.
2. A copy of the Annual Report shall be submitted to the Vermont Department of Environmental Conservation.

#### **2.11 COOLIDGE HOMESTEAD HISTORIC AREA**

The Coolidge Homestead Historic Area consists of the Plymouth Notch Historic District, comprising properties owned by the Vermont Division of Historic Preservation, and the Calvin Coolidge Memorial Foundation, as well as abutting lands in close proximity to Calvin Coolidge Historic Site. This is the birthplace of the 30<sup>th</sup> President of the United States and one of a few presidential sites not owned or managed by the federal government.

Plymouth Notch is a rural Vermont village and remains virtually unchanged since the turn of the last century. The District consists of several historic properties. These include the boyhood home of Calvin Coolidge, a former tavern, barns, the Plymouth Cheese Factory, a one-room schoolhouse, and the Union Christian Church. This area is treasured and viewed by thousands annually from all parts of the world for its unique and pristine character. The purpose of this provision is to allow growth while conserving the integrity and character of this special place. New construction will occur within this Area. The goal is to ensure that this construction is complementary to existing buildings and the streetscape which respects the traditional scale, proportions, and shapes of the surrounding neighborhood.

##### **A. Permitted Uses**

None.

##### **B. Conditional Uses**

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

##### **C. Area, Land, and Structural Requirements**

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 Design Plan Approval first being obtained from the Planning Commission. Development, as applied under this section means:

1. Construction of a Building;
2. Relocation of a Building or Structure;
3. Alteration to the exterior of a building which changes its size, roof line, or exterior walls; and
4. Erection or alteration of other permanent structures such as towers, and canopies, not otherwise exempt from this Ordinance pursuant to Section 4.5.

Persons seeking Design Plan 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.

Upon receipt of a complete application, the Planning Commission shall review the proposal, and upon close of testimony, act to grant or deny Design Plan Approval. The applicant shall have responsibility to demonstrate that the proposal substantially meets the review criteria set forth below.

1. Height: The height of new buildings or alterations shall be considered in relation to adjacent buildings
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. 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.
4. Proportion: The relationship of width to height of facades of adjacent buildings shall be considered in the construction or alteration of a building.
5. Pattern: 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 SPECIAL PROVISIONS**

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

Any lot in existence on the effective date of this Ordinance, including an interim Zoning Ordinance, may be developed for the purposes permitted in the District in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth dimension of forty feet. Nothing in this section shall be construed so as to prevent the sale or transfer of such a lot. If such lot subsequently comes under common ownership with one or more contiguous lots, such lot shall not be deemed merged.

#### **3.2 LOT LINE ADJUSTMENTS AND ANNEXATIONS**

A Zoning Permit shall be required prior to the subdivision of land parcels or lots incidental to title transfers between abutting landowners for the purpose of establishing clear property line boundaries. In granting a 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.

#### **3.3 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 highway. 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 major subdivisions, the benefit and burden of which shall run permanently with the lot.

For Rights Of Way, the Planning Commission can develop access standards relating to driveways.

**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 permanent access to a public road or water.

#### **3.4 HOME OCCUPATION**

This Ordinance provides the right for any resident to use either a minor portion of the dwelling in which resides or its accessory building 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 employ only full-time residents of the house and up to two (2) other full-time-equivalent (forty-hour workweek) persons working on site.
- 3.4.3** The home occupation is operated entirely within either the residence or accessory building; if operated in the residence, it shall not exceed fifty percent (50%) of the total floor area of that building. If the use is to be conducted in an accessory building, the occupation shall not exceed fifty percent (50%) of the 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.
- 3.4.6** 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 lines of a home occupation is not permitted.

Examples of a Home Occupation, customary and secondary to a residence, include telephone sales, data entry, food catering, free-lance writing and home office. Examples of uses not considered a home occupation include retail sales (except sales of agricultural or handcrafted products assembled or produced on the premises), auto and heavy equipment service and repair, and restaurants.

### **3.5 RURAL SMALL ENTERPRISES**

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 highways or fire protection. In order to protect the rural character of the area, the impact of additional traffic on the rural highway 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. Below are standards that must be met prior to approval:

- 3.5.1** The owner of the enterprise shall work on the property.
- 3.5.2** No more than five (5) employees shall be permitted, exclusive of the owner. Notwithstanding the above, the Planning Commission may authorize additional employees on finding that such does not materially impair the purpose of this section or other requirements of this Ordinance.
- 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 highways in the vicinity of the site.

**3.5.5** Design and placement of structures and buildings should be compatible with the rural character or the immediate neighborhood. Structures or buildings that are highly visible from town roads and are not intended to be screened, as well as relatively large structures or buildings that are dominant features of the landscape are discouraged and shall be closely evaluated.

### **3.6 TEMPORARY STRUCTURES AND BUILDINGS**

In order to facilitate the long-term use of property, temporary structures or buildings may be erected or placed on a lot in non-compliance with the area, and structural requirements of this Ordinance upon approval of the Zoning Administrator. Prior to granting a Zoning Permit for a temporary structure or building, the Zoning Administrator shall first find that its intended purpose is only temporary and that adequate assurance is established that such a structure or building shall remain on the lot for a period not to exceed twelve (12) months from date of issuance of such permit. Permits for temporary structures or buildings shall be for a period of one (1) year. Permits may be extended for a period of one year upon application to the Zoning Administrator.

Examples of temporary structures or buildings include construction trailers, storage vans or trailers incidental to a building project, construction fences, electrical and telephone boxes, storage sheds, and for the sale of home-grown products.

### **3.7 SEWAGE DISPOSAL**

An applicant for a Zoning Permit whose land requires a Wastewater Permit from the Protection Division of the Agency of Natural Resources shall obtain such permit prior to the issuance of a Zoning Permit. A copy of the Wastewater Permit shall be submitted as part of the zoning application.

In situations where a Sewer Permit is required from the Septic Officer prior to the installation or replacement of a wastewater disposal system, applicants for a Zoning Permit shall first obtain a Sewer 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 two 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 LOTS IN TWO ZONING DISTRICTS**

Where a District boundary divides a lot of record held in single ownership on the effective date of this Ordinance, such lot may be developed according to the following:

**3.9.1** For the purposes of calculating the permissible density of uses permitted on that lot, the area of the entire lot may be used.

- 3.9.2** Notwithstanding the density provisions set forth above, all structures and/or uses, and any uses or structures accessory to those uses or structures shall comply with the provisions of the District within which such structure or uses are to be located.

### **3.10 WAIVERS**

The establishment of large lot requirements for residential development in the Rural Densities and Conservation Districts do not necessarily ensure maintenance of rural character. It is also the finding of the Town that a low overall density in these Districts is consistent with town's desired development pattern. However, large lot requirements can result in major portions of a residential lot being unused or unmanaged for any purpose desirous to the owner or the community.

By use of this provision, it is the intent of the Town to permit flexibility in the design and development of rural land. Landowners wishing to sell undeveloped land for home sites not meeting the standard minimum lot area requirements are free to do so provided that the overall ratio of lots to land area for the tract is not exceeded.

It is the intent of this provision to ensure that productive open land or forestlands remain open and that the remaining land can be used for district purposes at a lot size more convenient with the interests of the property owner.

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.

Waivers shall be granted as a conditional use by the Planning Commission to reduce dimensional requirements only as specified under each district in section 2.1:

1. Reduce front or side setbacks to allow for necessary disability access;
2. Reduce side setbacks to allow for necessary fire safety improvements;
3. Reduce side setbacks in the Village districts, when the reduction is no greater than the setbacks for existing structures on any adjacent lot, provided it is at least 5 feet; or
4. Reduce front side setbacks in the Village districts, when the reduction is no greater than the setbacks for existing structures on any adjacent lot, provided it is at least 30 feet.

Waivers may be considered by the Planning Commission to reduce any dimensional requirements of any district if the proposed development meets all of the following criteria:

1. The proposed development conforms to the existing development patterns of the district;
2. The proposed development will more effectively preserve open land or scenic vistas; or
3. The waiver will not result in a 50% decrease in any dimensional requirement.

#### **3.10.1 Standards for Lot Frontage Waiver Approval**

The Planning Commission may approve creation of a lot having less than the stated minimum frontage upon finding that:

- The total frontage is not less than 50 feet.
- The width of the lot at its widest point is at least one half of its depth at its deepest point.

### **3.10.2 Standards for Lot Area Waiver Approval**

- a. Landowners interested in Lot Area Waiver Approval need to first informally meet with the Planning Commission to discuss general plans for division of their property. Following this, the Planning Commission will provide general advice to the owner on the Lot Area Waiver Approval provision as it may relate to the tract or parcel under consideration. Information exchanged as result of this meeting between the owner or the Planning Commission is for information purposes only.
- b. Following the informal meeting with the Planning Commission, a landowner seeking Lot Area Waiver Approval shall submit an application to the Planning Commission. Such an application shall include the following:
  - i. name of owners of record;
  - ii. identification of the land by Book and Page of the Land Records of Plymouth;
  - iii. identification of the land as depicted on the current Plymouth Property Tax map;
  - iv. copies of recorded deeds or easements for the property;
  - v. a plan of division for the property revealing physical features, existing and proposed structures or buildings, proposed utilities, including wastewater and water supply systems contemplated or approved;
  - vi. names of abutters and persons or entities holding interests, easements, or rights to the property;
  - vii. a general map of the property depicting the percentage of land area in excess of 25% slope and wetlands as identified by the National Wetland Inventory. The Town has on file maps which are available to the applicant to assist the development of this information; and
  - viii. any other information considered appropriate
- c. In granting approval, the Planning Commission shall find that the proposed division meets the following standards:
  - i. the application satisfies the application requirements set forth above;
  - ii. the proposed use of the lot is consistent with those provided for in the District(s) wherein such use is proposed;
  - iii. the proposed division of the parcel does not exceed the lot/area ratio for the district where the parcel is situated. Calculation of lot/area ratio shall be based upon the total area of the parcels existing on the date of adoption or amendment of this Ordinance divided by the lot area minimum set forth for the district where such parcel is located (e.g. total parcel area is 90 acres and located in the Conservation Areas District. Minimum lot area is 10 acres. Lot/area ratio is 9. Total number of potential lots resulting from the division of this parcel is 9.);
  - iv. the proposed division does not significantly reduce the agricultural or forestry potential of the parcel or the proposed division has been planned to minimize the loss of such potential through use of acceptable resource planning and design practices; and
  - v. all roads, sewage disposal and water supply systems, curb-cuts, access roads, easements, power lines, and other land improvements necessary to accommodate the development of lots resulting from the division are reasonably consistent with or complement the overall intent of this section and, where applicable, have been approved by the State of Vermont and the Town.

- d. No lot approved under this section shall be less than one acre. All structures and buildings must meet with setback requirements for the District.

### **3.10.3 Re-subdivision of Lots**

This section provides for incremental division of a parcel over time. As noted above, the resultant lots need not comply with the area or minimum lot area requirements set forth for in the District for conventional division, so long as the overall density ratio is maintained.

A lot created from a parcel approved under this section shall not qualify for re-subdivision unless such right of subdivision is included as part of the decision of the Planning Commission.

Unless included as part of the decision of the Planning Commission provide to the contrary, permittees, all assigns and successors in interest shall not convey a portion of any lot without first complying with this Section. In accepting Lot Area Waiver, permittees acknowledge that such lots may not qualify for re-subdivision approval. Furthermore, any waiver of subdivision rights to a lot shall be made a term of any contract of sale of such lot.

## **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 highway 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 change the location or size of 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:

- a. One real estate "for sale" sign per property not to exceed 4 square feet;
- b. 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;
- c. Contractor signs not exceeding 12 square feet displayed during the construction period;
- d. Instructional signs (e.g. exit, parking in rear, watch for falling ice) not exceeding 2 square feet and not more than three per property;
- e. Window display signs pertaining to activities conducted within a building;
- f. Political signs;
- g. No trespassing signs;
- h. Road signs designating private ways or trails;
- i. Residential signs containing non-commercial content not exceeding 6 square feet;

- j. Official business directional signs and other public signs located within a road right of way;
- k. One sign not to exceed 3 square feet for home identification, instructional or directional purposes; and
- l. 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**

- a. All signs shall be incidental to the use of the property and be located on the premises.
- b. Every sign shall be maintained in good condition and repair.
- c. Freestanding signs shall not exceed sixteen (16) feet in height above the finished grade.
- d. Signs attached to a building shall not extend beyond or above that building by more than four (4) feet.
- e. Signs shall not contain moving parts, nor be illuminated by neon or flashing lights.
- f. 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.
- g. 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.
- h. 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.
- i. For a home occupation no more than one sign, not exceeding 9 square feet shall be permitted.
- j. 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.
- k. All signs shall be setback at least one-half of the minimum setback distance or equal to the existing setback where the sign is a non-complying structure.

**3.12 EXTRACTION OF GRAVEL, SAND, SOIL, AND MINERALS**

The extraction of gravel, sand, soil, and minerals or a substantial change from 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** Plans for the restoration of the disturbed portions of the site during and following the operation are adequate to insure that a safe, attractive, and useful condition results;
- 3.12.2** Plans for the operation of the facility are sufficient to insure that the operation will not adversely affect water quality, drainage patterns, or create excessive dust, traffic, vibration, and noise at the site or areas in close proximity to the site;
- 3.12.3** The operation will be managed to prevent the creation of excessively steep slopes, overhangs, exposed boulders, uprooted stumps, and other debris;
- 3.12.4** The scale of intensity of the operation will not place excessive or uneconomic demands on bridges, culverts, and roadways leading to and from the project site; and

- 3.12.5** If power crushing or sorting operations are proposed on the site, such activity will not unduly affect the character of the immediate neighborhood area.
- 3.12.6** 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**

- 3.13.1** No permit for the development of a wireless communication facility shall be granted by the Zoning Administrator without Conditional Use Approval from the Planning Commission. Prior to granting such 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:

**Yard Requirements** - Equipment, buildings, and other structures shall conform to the minimum front, side, and rear setbacks for the District in which they are located.

**Height Limitations** - The height limit for equipment buildings or similar structures shall not exceed 35 feet. 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.

**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.

**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.

**Screening** - 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 35 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.

**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 applicants 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 permit other wireless service providers to

collocate on the proposed tower subject to reasonable terms and conditions. Notwithstanding, there shall be no affirmative obligation on the applicant to increase the height or width of the towers in order to accommodate the equipment or facilities of another user nor shall the applicant be required to engineer the tower to accommodate another potential user. The applicant shall provide evidence in writing on how it intends to comply with this requirement and to provide copies of any such proposed agreements.

**Access Roads and Utilities** - Where new wireless communication facilities require construction of or improvement to access roads, to the extent practicable, roads shall follow 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. New or improved roads or utilities may be limited to the exclusive use of the cell tower.

**Protection of Scenic Ridges and Hillside**s - 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 highway or Class II Town highway, or at least two vantage points on a Class III town highway 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 sub-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 highway 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 sub-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:

- i. the period of time during which the proposed tower would be viewed by the traveling public on a public highway;
- ii. the frequency of the view of the proposed tower as experienced by the traveling public;
- iii. the degree to which the view of the tower is screened by existing vegetation, the topography of the land, and existing structures;
- iv. background features in the line of sight to the proposed tower that obscure the facility or make it more conspicuous;
- v. the distance of the proposed tower from the viewing vantage point and the proportion of the facility that is visible above the skyline;
- vi. the number of vehicles traveling on a public highway or water at or near the critical vantage point;
- vii. the sensitivity or unique value of the particular view affected by the proposed tower; and
- viii. significant disruption of a viewshed 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:

- a. Name and address of the record landowners and any duly appointed agents of the parties;
- b. Names and addresses of the record owners of all abutting property;
- c. 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;
- d. A description of the proposed development;
- e. 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;
- f. A utility and access road plan located on a USGS Topographic Map;
- g. 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;
- h. A design or plan for all structures, buildings, or facilities proposed for the site;

- i. The proposed locations of all existing and proposed wireless service facilities in Plymouth and within 20 miles of the proposed site for all licensed carriers seeking approval under this application;
- j. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, an Environmental Assessment (EA) draft or final report outlining the probable impacts of the proposed facility on wildlife habitats, endangered species, historic and archeological resources, wetlands, and other resources;
- k. A cumulative radio frequency radiation study demonstrating compliance with FCC standards at the site;
- l. Existing wireless communication facility for any competitor providing functionally equivalent service to Plymouth and the estimated coverage area; and
- m. 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:

- a. change in the number of facilities permitted on the site;
- b. changes in technology used for the facility; or
- c. 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, may 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**

Except for farm structures, silos, private home antennae, belfries, steeples, cupolas, water tanks, chimneys, 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**

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 non-residential development proposal for which site plan review under Conditional Use is required, the Planning Commission shall review and approve lighting plans as part of its site plan review under Conditional Use. In granting approval, the Commission shall find that:

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;
2. Lighting is placed on the lot so as to avoid glare nor create a traffic hazard;
3. Pole heights for lights are compatible with the scale of surrounding buildings and the site;
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
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. A copy is available from the Planning Commission.

### **3.16 OUTDOOR STORAGE**

The open storage of materials, inoperable, or retired junk vehicles, dismantled equipment and other similar items shall be screened from view from a public highway whether or not such items are used in connection with a business. 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 roadway 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 drives to a project for construction equipment and similar activities.

<b>Continuous Road Frontage of Parcel</b>	<b># of Access Roads Permitted</b>
Less than 800 Feet	2
Between 801 and 1,600 Feet	3
Between 1,601 and 2,400 Feet	4
Between 2,401 and 3,200 Feet	5

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. Contact the Town Offices for more information.

### 3.18 OFF-STREET PARKING

No land, building or structure shall be used or substantially changed in use unless there is provided off-street parking that meets the applicable minimum requirement as set forth below. All non-residential parking lots shall require site plan review under Conditional Use Approval. A parking space shall be nine (9) feet by eighteen (18) feet per vehicle.

**Residential Uses:** Two parking spaces for each dwelling unit.

**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.

**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.

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

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

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

**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.

**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.

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

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

Any parking area located within any front yard may require screening. Screening plans shall focus on separation of parking lots from adjoining public streets to minimize 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 determined to be a practical alternative.

All parking areas shall be landscaped as approved by the Planning Commission.

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

Outdoor lighting plans for parking areas shall be in conformance with Section 4.9 Outdoor Lighting of this Ordinance.

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.

Waivers – The Commission may waive parking requirements at the request of the applicant. In granting such waivers, the Commission may attach conditions to ensure that off-street parking is addressed sufficiently. The Commission shall grant waivers and render a decision in favor of the request, 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.

### **3.19 LAND FILLING**

The removal or deposition of 100 cubic yards or more of rock, stone, or earth from one site to another involving a flood hazard area or wetland shall require Conditional Use Approval from the Planning Commission. Prior to granting approval, the Commission shall find that the proposed activity:

1. If located within a regulated flood hazard area, will not restrict or divert the flow of flood waters or significantly increase the peak discharge of the stream within or downstream from the area of the proposed land filling;
2. Does not involve or adversely effect wetlands, as identified by the National Wetlands Inventory Maps or as may be regulated by the Vermont Agency of Natural Resources.

Applications for permits shall include information sufficient to address the criterion above and to enable the Commission to reach a conclusion pertaining to proposed activity.

### **3.20 LANDSCAPING AND SCREENING**

Where a non-residential use abuts a residential use, there shall be a buffer strip of land not less than fifteen (15) feet in depth along such common boundary, excepting points of access. The

strip shall be maintained and used only for a fence or natural plantings such as coniferous trees and shrubs.

### **3.21 WIND OR SOLAR GENERATION FACILITIES**

Conditional Use Approval shall be required from the Planning Commission prior to the construction or development of a wind or solar generation facility. In approving an application for this use, the following facts shall be found by the Commission and specified in its decision:

1. The location of the proposed use will not have an undue adverse visual impact on scenic or historic character of the immediate area;

To assist the Commission in evaluating this criterion, the applicant shall provide information regarding the character of the surrounding area, the extent in which the proposed use fits or is compatible with the area, the degree of visibility to the traveling public, particularly users of town and state highways, the degree in which views of the facility are screened by existing vegetation, plans or designs for the facility, and the extent in which reasonable steps have been taken to lessen any adverse impacts.

2. Where construction of access roads are involved in undeveloped areas, such roads are situated to follow the contour to the land and avoid open fields to minimize visibility;
3. The proposed use will not significantly endanger or destroy necessary wildlife habitats; and
4. Any noise or vibration resulting from the operation of the facility would not be unpleasant and out of context for the area, as well as a threat to hearing of nearby residents at the property boundaries.

In rendering a decision granting the approval, the Commission may attach such conditions to safeguard and protect the interests of the community as expressed in the Plymouth Town Plan.

### **3.22 COMMERCIAL AND INDUSTRIAL 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. Each use is subject to a case-by-case review by the Planning Commission. 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. Projects that are visual intrusions on the landscape due to poor style, bulk, location, scale, size, or similar designs are considered incompatible and inconsistent with the provision and are discouraged.

Outlined below are design standards the Planning Commission shall consider in granting approvals to site plans under Conditional Use for commercial and industrial uses:

1. Landscaping is required in front and side yards, adjacent to parking areas, and where rear yards abut residential properties or public roads. Maximum efforts need to be made to save existing trees, especially those that are mature or have special horticultural or landscape value. To visually reduce the scale or bulk of large buildings, to integrate the site with the surrounding landscape, and to enhance environmental quality, e.g. stormwater retention, soil stabilization use of shade trees shall be considered.

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. 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.
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.
5. Historic features, including stonewalls, shall be preserved and integrated into the design of the project, where practical.
6. Development shall be located on the site to minimize loss of productive farm and forestland.

### **3.23 PROHIBITED USES**

The following uses shall be prohibited in all Zoning Districts:

1. Commercial Dump
2. Junk Yard
3. Commercial Slaughter House
4. Rendering Plant
5. Fertilizer Plant
6. Airport
7. Race Track

### **3.24 PUBLIC USE LIMITATIONS**

The following uses may be regulated only with respect to location, size, height, building bulk, yards, 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:

1. State or community owned and operated institutions and facilities;
2. Public and private schools and other educational institutions and facilities;
3. Churches and other places of worship, convents, and parish houses;
4. Public and private hospitals;
5. Regional solid waste managements facilities;
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:

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.
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. 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**

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:

1. No mobile home lot shall be located within a floodway or floodplain unless elevated;
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. Off-street parking shall be provided for each mobile home consisting of two spaces per mobile home;
4. All mobile homes and accessory structures shall be at least twenty-five (25) feet apart, unless otherwise permitted by the Commission;
5. Mobile home parks shall be conditionally permitted in all zoning districts, excepting Conservation Areas and the Coolidge Homestead Historic Area;

6. Evidence shall be provided that the proposed park is in compliance with state wastewater and water supply rules;
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
8. All roads, drives, 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 Administrator is hereby appointed to administer the Zoning Ordinance, as provided for in Section 4448 of the Act. 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, 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, as specified in Section 4.14, 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 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. Land development incomplete at the time of final expiration of a Zoning Permit 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.

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

Within three (3) days following the issuance of a Zoning Permit, the Zoning Administrator shall deliver a copy of the Permit to the Plymouth Listers and post a copy of the Permit within view of

the right of way and at the Town Offices for a period of fifteen (15) days. The posting shall include information about the permit appeals process.

Within thirty (30) days after the 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.

#### **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).

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, this Zoning Ordinance and any applicable health regulations.

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. 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**

The Zoning Administrator, being duly authorized to enforce this Ordinance, is empowered to enter upon land or any building with permission for the purpose of assuring that any land development, as defined or approved, is in compliance with the requirements of this Ordinance and any Zoning Permit or Certificate of Compliance as may have been granted.

Prior to entry on private property, the Zoning Administrator shall obtain permission of the owner and any other involved party of interest.

#### **4.7 INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

If, in the administration or enforcement of this Ordinance, the Zoning Administrator's determination of a Zoning District boundary is challenged, the applicant or an interested party may appeal such determination or action to the Zoning Board of Adjustment. The Zoning Board of Adjustment, as part of its review, may require that the applicant or interested parties submit information relevant to the topography of the site, typical soil conditions, existing highway locations, adjacent land uses and property boundaries. In the conduct of its review, the Zoning Board of Adjustment may enter upon said lands in dispute to perform any inspections, as necessary. The existing conditions of the site and vicinity, and purposes of the District, shall be considered in the deliberations of the Zoning Board of Adjustment.

#### **4.8 NON-CONFORMING USES**

A non-conforming use may be continued, subject to the following conditions:

- 4.8.1** A non-conforming use may be changed to another non-conforming use upon approval of the Planning Commission, but only if the Commission finds that the degree of non-conformity of the new use is not greater than that of the original non-conforming use.
- 4.8.2** Where a non-conforming use has been discontinued for a period of one (1) year, it shall not be re-established.

#### **4.9 NON-COMPLYING STRUCTURES**

A non-complying structure may be continued, subject to the following conditions:

- 4.9.1** A non-complying structure may be extended within the boundary lines of a parcel or lot existing on the effective date of this Ordinance, or any applicable amendment thereto, upon issuance of a Zoning Permit by the Zoning Administrator, provided that the extension shall not cause the use or structure to become in violation of any parking, unloading, required setback, lot area, coverage, building height, access road, or other requirements of this Ordinance applicable to such parcel or lot, and provided further that such extension shall not cause an increase in an existing violation of any such requirement. 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.
- 4.9.2** 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.
- 4.9.3** The foregoing shall not apply to non-complying signs.

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

A Zoning Board of Adjustment is hereby established. Except as specifically provided herein and in accordance with the provisions of 24 V.S.A., Chapter 117, the Zoning Board of Adjustment shall not amend, alter or invalidate this Ordinance.

The Board 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.

#### **4.11 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:

**4.11.1** 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 in accordance with Section 4.13; and

**4.11.2** To hear and grant or deny a request for a variance in accordance with Section 4.15.

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.

#### **4.12 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:

**4.12.1** To hear and approve or deny a request for a Conditional Use in accordance with Section 4.16;

**4.12.2** 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.

#### **4.13 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.

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.
2. The Board shall give public notice of the hearing, according to section 4.18, and shall mail to the appellant a copy of such notice at least fifteen (15) days prior to the hearing date.
3. An interested party who appeals with respect to the property at issue may appear and be heard in person or be represented by an agent or attorney at such hearing.
4. Any hearing held under this section may be adjourned by the Board from time to time, provided however, that the date and place of the reconvened hearing shall be announced at the hearing. 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.
5. The Board shall render its decision, which shall include findings of fact, within forty-five (45) days after completing the hearing, in accordance with Section 4470 of the Act. If the Board fails to act within this period, it shall be deemed to have rendered a decision in favor of the appellant and granted the relief requested on the last day of such period.
6. The Board shall keep minutes of its proceedings, 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.
7. All findings and actions of the Board 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.

#### **4.14 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.

#### **4.15 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 are found and specified in the decision of the Board. In granting a variance in favor of the appellant, all of the following facts shall be found by the Board and specified in its decision.

- 4.15.1** 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;

- 4.15.2** 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;
- 4.15.3** That such unnecessary hardship has not been created by the appellant;
- 4.15.4** 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;
- 4.15.5** 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.
- 4.15.6** 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, 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.

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.

## **4.16 CONDITIONAL USE APPROVAL**

### **4.16.1 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.

- a. A map showing the general location of the property within the Town and its relationship to existing public roads and highways.
- b. 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 public highways to the property at issue.
- c. A statement and/or map sufficient to demonstrate the relationship of the proposed development to adjacent land uses, both existing and proposed.
- d. A proposed site plan, drawn to an appropriate scale, showing the location, height, spacing, uses, and architectural relationships of all buildings existing and proposed open spaces, landscaping, utility lines, streets, drive-ways, off-street parking facilities, unique or manmade features and the physical conditions of the site.

- e. 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.
- f. A development schedule indicating the approximate dates when construction of the project or stages of the project is expected to begin and be completed.
- g. Existing and proposed future ownership of the property involved.
- h. In the event land development is proposed involving the condominium form of ownership, proposed Declaration of Condominium and Condominium Association Bylaws.
- i. Notwithstanding the above, the Planning Commission may require additional documentation or information to assist in the review and evaluation of the proposal.

#### **4.16.2 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. The Commission, upon receipt of a complete application, shall conduct a legally noticed public hearing, and based upon the testimony presented at the hearing, render a written decision approving or denying the request. In granting approval, the Commission shall find that the proposed use meets with the general and specific standards prescribed for such uses in this Ordinance.

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

- a. Adequacy and safety of parking and loading facilities;
- b. Access for fire equipment, and on-site pedestrian safety;
- c. Adequacy of landscaping, screening and setbacks to achieve maximum compatibility with, and protection of other properties in the area;
- d. Adequacy of exterior lighting and avoidance of excessive glare;
- e. The protection of the utilization of renewable energy resources;
- f. The capacity of existing or planned community facilities;
- g. The character of the area affected as defined by the purposes of the zoning district and the stated policies and standards of the Plymouth Town Plan;
- h. Traffic on roads and highways in the vicinity;
- i. Utilization of renewable energy resources: and
- j. Other applicable provisions of this Zoning Ordinance.

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.

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

It shall be the duty of the Administrative Officer to enforce the provisions of this ordinance. Whenever any development occurs contrary to these regulations, the Administrative Officer, 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 Administrator Officer 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.

#### **4.18 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. 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. Also, a warned public hearing shall be required for Planned Unit Development review before the Planning Commission. In these cases, a public notice for a warned public hearing shall be given not less than fifteen (15) days prior to the date of the hearing. Posting of the notice shall be made on the property within view of the 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:

1. Publication of the date, place, and purpose of the hearing in a newspaper of general circulation in Plymouth;
2. Posting of the notice in three or more public places within Plymouth, including the Town Clerk's Office;
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.

**4.19 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.

## **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 4.16;
- 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 meets the minimum parcel area requirements for a Planned Unit Development according to the District in which the proposal is located. The total minimum parcel area for Planned Unit Development is as follows:

<b>VILLAGE HAMLET</b>	<b>2 ACRES</b>
<b>RURAL DENSITIES</b>	
<b>RD2</b>	<b>6 ACRES</b>
<b>RD5</b>	<b>15 ACRES</b>
<b>RD10</b>	<b>30 ACRES</b>
<b>CONSERVATION AREA</b>	<b>30 ACRES</b>

- 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;
- 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;
- 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:

- a. 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;
  - b. 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 roadways;
- 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 4.14.
- 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 roadways 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.

***Accessory Dwelling Unit:*** A permitted use that is located within or appurtenant to 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.

***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.

***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 between 5 and 12 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 roadway 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 (Light):** Any use of land or structures primarily for the purpose of buying or selling goods or services, which, after applying the Ordinance standards, could reasonably be carried out on ½ acre of land. Examples: retail shops or general stores.

**Commercial (Medium/Heavy):** Any use of land or structures primarily for the purpose of buying or selling goods and which would reasonably require more than ½ acre of land. Examples: automotive dealership, equipment sales, or building supply outlets.

**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.

**Detached Apartment:** Living quarters in an accessory structure and not attached to the principal single-family dwelling or structure. It shall be no more than 1,500 square feet in area or one-half of the living area of the primary dwelling, whichever is larger. In determining density or minimum lot size requirements, detached apartments shall be considered an additional family dwelling and shall not exceed the allowable zoning density.

**Development:** means, for floodplain management purposes, 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.

**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.)

**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 room or group of rooms to be occupied solely by one family.

**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

**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

**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.

**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.

**Hotel/Motel:** A building used as a dwelling unit having a capacity of between of more than 12 paying guests for public lodging, providing room and/or meals to the general public, and which does not materially change the character of the immediate area.

**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 Yards:** 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 public highway. 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.

**Lodge:** A building containing central entrances for lodging up to 25 paying guests which may provide meals 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 highway 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 highway 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 highway 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.

**Major Subdivision:** Means any subdivision with 4 or more parcels.

**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.

***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.

***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.

***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.

***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 3.4, *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 any highway or road right-of-way to the nearest part of a principal building or structure.

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

**Setback, Side:** The distance from the side lot line to the nearest part of a principal 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, and underground utilities.

**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”.

**Subsurface Sewage Disposal System:** Any sewage disposal system which treats and disposes of domestic sewage underground and therefore whose proper installation and safe functioning is dependent on suitable conditions of soils, slopes, bedrocks, and water tables.

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

**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 highway 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 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.