

Pomfret Zoning Regulations

Ridgeline and Hillside Conservation Areas

*As Amended and Restated in Its Entirety by the
Pomfret Board of Selectman on July 2, 2008*

PART 15 - RIDGELINE AND HILLSIDE CONSERVATION AREAS

15.1 Existing Scenic Qualities.

The principal scenic qualities in Pomfret, as viewed from its Public Highways, are typical of the Vermont rural scene; probably no other township has so many fine examples. These principal scenic qualities can be broadly defined as follows:

The valley floors and much of the lower hillsides are predominantly open meadows with occasional farm buildings and often a line of trees along a brook. The upper hillsides, while predominantly wooded, usually have an alternating pattern of woods and open fields, which provides diversity and interest. The ridgetops are dramatic and presently are predominantly wooded. These ridgetops, visible from most of the valleys, provide two long parallel high and quite steep hillsides capped by fairly flat ridgetops. The ridges are presently pristine and undeveloped and provide unbroken and uncluttered skylines when viewed from the valley floors; they act as a powerful and essential framework for the pastoral setting of the valleys. The special characteristics of Pomfret scenery emphasize these typical features of Vermont and the height of the ridges serves to make the scenic qualities more dramatic. The dramatic nature of the usually unobstructed views is often emphasized by a natural focal point farther down the valley.

15.2 Purposes and Intent.

15.2.1 The ridges and hillsides of Pomfret are one of Pomfret's principal scenic qualities; they contribute significantly to the maintenance and enjoyment of Pomfret's rural and pastoral character and personality. Preservation and conservation of Pomfret's ridges and hillsides are essential to maintain Pomfret's rural and pastoral character and personality and are vital for the current and future well-being of the town's permanent and part-time residents. Preservation and conservation of Pomfret's ridges and hillsides and the resulting protection of the beauty of Pomfret's landscape are matters of public good.

15.2.2 This Part 15 is intended to implement the philosophy and intent of a) Section 3.16 Ridgelines and Hillsides which was added to Article III - LAND USE of the Pomfret Town Plan as it was adopted by the Town of Pomfret on December 16, 1987, and b) the subsection "Conservation of Pomfret's Ridgelines and Hillsides" of Chapter 5 NATURAL, HISTORIC AND SCENIC RESOURCES of the Pomfret Town Plan as it was adopted by the Town of Pomfret on November 21, 2007 and said section and subsection are hereby made a part of this Section 15.2.2 as if specifically set forth.

15.2.3 The development and uses of Pomfret's ridges and hillsides need to be regulated in a fair and consistent fashion in order to allow development and use of these areas in a manner which will not detract from, nor adversely affect, the principal scenic qualities of the town. It is not the purpose of this Part 15 of the Zoning Ordinance to prohibit development of Pomfret's ridges and hillsides, but to assure that such development takes place in a manner which is compatible with the important natural environmental assets of the town: its ridges and hillsides.

15.2.4 The steep slopes associated with Pomfret's hillsides require a higher sensitivity and concern for a) properly designed and constructed sewage disposal systems located on or near such steep slopes, b) soil erosion, c) surface water runoff areas located below steep slopes, and d) their associated problems. This Part 15 is intended to give added protection to the delicate environment associated with these steep slopes, including deer habitats, watersheds, water supplies and plants.

15.2.5 It is the intention that this Part 15 of the Zoning Ordinance shall be effective only for the primary ridgelines and hillsides as specifically identified in Section 15.4 and referred to herein as the Ridgeline and Hillside Conservation Areas. The other provisions of this Zoning Ordinance shall, however, also fully apply to these Ridgeline and Hillside Conservation Areas in addition to the provisions of this Part 15 of the Zoning Ordinance. In the event there is a direct conflict between the other provisions of this Zoning Ordinance and the provisions of this Part 15 dealing with the Ridgeline and Hillside Conservation Areas, the more restrictive provisions shall apply.

15.3 Objectives.

This Part 15 of the Zoning Ordinance has the following objectives:

15.3.1 To allow development in Pomfret's Ridgeline and Hillside Conservation Areas primarily below the skylines so that no development shall break the skyline nor a ridgeline near the proposed development when viewed from Pomfret's Public Highways at any time of the year.

15.3.2 To allow development in Pomfret's Ridgeline and Hillside Conservation Areas primarily in existing wooded areas outside of existing or created open areas; and if not practical or possible to do so, to have such development properly and adequately screened, all so as not to have an undue adverse effect on the current and existing pristine views of the Ridgeline and Hillside Conservation Areas from Pomfret's Public Highways.

15.3.3 Not to affect by this Part 15 of the Zoning Ordinance those lands located within three hundred feet (300) from the center line of any Class 1, 2, or 3 Town Highway.

15.3.4 To keep and maintain the Ridgeline and Hillside Conservation Areas, as viewed from Pomfret's Public Highways, in their present condition to the maximum extent possible.

15.3.5 To allow outside the perimeter of any existing or planned building site the following activities without application of its provisions or involvement of the Pomfret Planning

Commission, **provided that** all cutting associated with such activities constitutes the practice of Good Forestry Management and all cutting associated with such activities does not 1) involve a clear cutting of a forest stand (sometimes referred to as "Liquidation"); nor 2) cause an obvious visual modification to the forest overstory as viewed from a Public Highway:

- a) Restoration of existing pastureland or meadows.
- b) Logging operations.
- c) Cutting of firewood.
- d) Woodlot or sugar bush management.
- e) Low brush cutting or other practices which are a part of good forestry management or good agricultural practices.
- f) Maintenance of existing recreational trails for hiking, skiing, snowmobiling, or horseback riding.

15.3.6 To allow, with a minimum of involvement of the Pomfret Planning Commission for its approval, activities or development which will not have

- 1) a substantial effect on the current and existing views of the Ridgeline and Hillside Conservation Areas as viewed from Pomfret's Public Highways; nor
- 2) a substantial effect on the environment of the area in or around the proposed activity or development.

15.4 Description of Ridgeline and Hillside Conservation Areas.

15.4.1 The Ridgeline and Hillside Conservation Areas shall generally consist of all land within seven hundred fifty feet (750') distant (measured horizontally) from any of those specific lines connecting a series of the primary ridges in the Town of Pomfret, but in any event shall consist of those Ridgeline and Hillside Conservation Areas specifically depicted and set forth on a map entitled "Ridge Line Zoning – Pomfret, Vermont – April 2, 2007" which has a notation of "The zoning district is the areas 750' from primary ridgelines AND NOT including areas 300' from the centerline of class 1, 2 and 3 town highways. Ridgelines and 750' buffer may vary. Based on the 1987 mylar map." The 1987 mylar map is entitled "Pomfret, Vermont - Ridgeline and Hillside Conservation Areas", dated November, 1987" and was corrected and updated by the first referenced map dated April 2, 2007.

15.4.2 Specifically excepted from all Ridgeline and Hillside Conservation Areas and the provisions of this Part 15, regardless of the depictions set forth on the said map are all those lands located within three hundred feet (300') (measured horizontally) of the centerline of any Class 1, 2 or 3 Public Highway in the Town of Pomfret.

15.4.3 In the event of any question of the limits or boundaries of any Ridgeline and Hillside Conservation Area, the Pomfret Planning Commission shall have the authority and power, upon request of a landowner and after a public hearing, to determine where such lines actually fall on the ground. Any landowner requesting the Pomfret Planning Commission to make such a determination shall be obligated to pay the costs and expenses of the Pomfret Planning Commission related to such determination, including the costs and expenses of a surveyor who may be employed by the Pomfret Planning Commission.

15.5 Conditions necessary for Visual Impact Approval.

15.5.1 Notwithstanding the other provisions of this Zoning Ordinance, except as hereinafter provided, no development shall take place within any Ridgeline and Hillside Conservation Area until the owner of the land obtains written Visual Impact Approval from the Planning Commission.

For the purposes of this Part 15, "Development" shall be defined as any of the following:

- a) Construction or placement of any building, including any preparatory work related to construction such as clearing of land or excavating;
- b) Construction of an addition to or any alteration of a building which increases the square footage of the building, whether enclosed or not, including porches, decks or other similar structures;
- c) Alteration to a roof of a building which increases the height of the building by more than one foot (1');
- d) Construction, modification or improvement of an access road, driveway or parking area, including any preparatory work related to an access road, driveway or parking area such as the clearing of land or the moving or disruption of soil;
- e) Construction of a tower, satellite dish or any other type of antenna , except for antennas exempt from local regulations by FCC Regulations including antennas one meter (3 feet, 3 3/8 inches) or less in diameter or diagonal measurement designed: for direct-to-home satellite service, to receive or transmit fixed wireless signals via satellite, to receive video programming services via broadband radio service (wireless cable), to receive or transmit fixed wireless signals other than via satellite, or to receive local television broadcast signals. Exempt antennas may be mounted on "masts" to reach the height needed to receive or transmit an acceptable quality signal (e.g. maintain line-of-sight contact with the transmitter or view the satellite) that are 12' or less above the roofline.;
- f) Construction of a windmill or any other type of instrument to make use of the wind;
- g) Construction of any improvements for any commercial or industrial purpose;
- h) Any excavating, drilling or surface or subsurface extraction of any gas, liquid or solid

matter of any kind for any purpose, including test purposes (See Section 7.3 of the Pomfret Zoning Regulations for additional requirements for any of these activities);

- i) Any installation of any above-ground power or telephone utility lines, including any creation or widening of any cleared portion of a right of way related to any proposed or existing power or telephone lines;
- j) Any major timber cutting, as defined in Section 15.6.9;
- k) Any cutting of a tree or trees, as defined in Section 15.6.15, within an existing or planned Building Site.

15.5.2 Lands within 300 feet of a Class 1, 2 or 3 Town Highway are Exempt. As stated in Section 15.4.2, this Part 15 exempts from its provisions lands located within 300 feet (measured horizontally) of a Class 1, 2 or 3 Town Highway.

15.5.3 Change of Use Exempt under this Part 15: A change in use of a building or in the type of occupancy shall not require Visual Impact Approval for Ridgeline and Hillside Conservation Areas under this Part 15, except as may be incidental to any development as defined above.

15.5.4 Certain Cutting Activities Exempt under this Part 15:

15.5.4.1 The following cutting activities in the Ridgeline and Hillside Conservation Areas are exempt under this Part 15 **provided that:** 1) the cutting is not within an existing or planned Building Site or within any restricted area set forth in any Permit issued under this Part 15; 2) all cutting associated with such activities constitutes the practice of Good Forestry Management; 3) all cutting associated with such activities does not involve a Major Timber Cutting; and 4) all cutting associated with such activities does not cause an obvious visual modification to the forest overstory as viewed from a Public Highway:

- a) Restoration of existing pastureland or meadows.
- b) Logging operations.
- c) Cutting of firewood.
- d) Woodlot or sugar bush management.
- e) Low brush cutting or other practices which are a part of good forestry management or good agricultural practices.
- f) Maintenance of existing recreational trails for hiking, skiing, snowmobiling, or horseback riding.

15.5.4.2 Pursuant to 24 V.S.A. §4413 (d)(3) Requirements of this ordinance imposing forest

management practices resulting in a change in a forest management plan for land enrolled in the use value appraisal program pursuant to 32 V.S.A. chapter 124 are permitted only to the extent that those changes are silviculturally sound, as determined by the commissioner of forests, parks and recreation, and protect specific natural, conservation, aesthetic, or wildlife features in properly designated zoning districts. These changes also must be compatible with 32 V.S.A. § 3755.

15.5.5 The Zoning Administrator for the Town of Pomfret is authorized to issue an advisory opinion as to whether or not any planned or ongoing cutting activity is exempt as set forth above, which advisory opinion will be reviewed and either approved or disapproved within thirty (30) days of issuance by the Pomfret Planning Commission at a regular or special meeting. If the Zoning Administrator issues an advisory opinion that any planned or ongoing cutting activity is not exempt, any such activity shall constitute a violation of this Part 15 until otherwise found exempt or approved by the Pomfret Planning Commission. Such advisory opinions of the Zoning Administrator may be issued upon request or upon the initiative of the Zoning Administrator.

15.6 The following definitions shall apply to this Part 15 of the Zoning Ordinance:

15.6.1 **"Access Road"** Any privately owned road or strip of land designed, constructed, used or maintained for the purpose of providing access by automobiles or other motorized vehicles to private property.

15.6.2 **"Building"** Any structure or structures (on a commonly owned parcel of land) which exceed in bulk volume a combined total volume of two thousand four hundred (2,400) cubic feet and which are designed or used for a) the use or habitation by persons or animals; or b) the shelter or placement of property. The term "building" shall include mobile homes, motor homes, trailers and other movable objects whether or not they are permanently affixed or attached to the ground.

15.6.3 **"Building Height"** The vertical distance measured from the elevation of the highest point of the building structure of the proposed building (excluding any non-structural chimneys, weathervanes and antennas) to the elevation of the lower of a) the lowest finished ground level at the building's exterior walls which face Critical Public Vantage Points on Pomfret's Public Highways; or b) the lowest original ground level at the building's exterior walls which face Critical Public Vantage Points on Pomfret's Public Highways.

15.6.4 **"Building Site"** The land around a proposed or existing house consisting of a circle with a radius of one hundred sixty-seven feet (167') (an area containing approximately two (2) acres of land) with the center of the proposed or existing house being located in the center of the circle.

15.6.5 **"Critical Public Vantage Point"** A point or place located on or immediately adjacent to a Class 1, 2 or 3 Public Highway from which the proposed development is visible as such point or points are selected by the Pomfret Planning Commission under the provisions of Section 15.9.3 or as such point or points may be selected by an applicant. The Significant Viewpoints on

Pomfret's Public Highways are simply reference points to be used and referenced in an application and are not meant to limit the Critical Public Vantage Points which may be used by the Planning Commission in actually evaluating an application (See Definition of Significant Viewpoints on Pomfret's Public Highways set forth in Section 15.6.14). In selecting or determining a particular Critical Public Vantage Point, consideration should be given to:

- a) the duration of the view of the proposed development to the traveling public;
- b) the frequency of the view of the proposed development as experienced by the traveling public;
- c) the degree of obstruction to the view of the proposed development as affected by existing vegetation, the topography of the land, and existing structures;
- d) contributing or detracting background features in the view of the proposed development;
- e) the distance to the view from the vantage point; and
- f) the number of cars traveling on the public highway at or near the Critical Public Vantage Point.

15.6.6 **"Development"** See Section 15.5.1.

15.6.7 **"Driveway"** Same definition as for "Access Road" set forth in Section 15.6.1.

15.6.8 **"Good Forestry Management"** Management practices which reflect a long-term forest management goal for the purpose of growing and harvesting repeated forest crops and which are in accordance with minimum acceptable standards which are established by the commissioner of the department of forests, parks and recreation pursuant to the terms of Section 3752 (13) of Title 32 of the Vermont Statutes Annotated dealing with Agricultural and Forest Lands and use value appraisals. The land in question does not need to be qualified for use value appraisal, but the standards for such qualification are to be the standards under this Ordinance.

15.6.9 **"Major Timber Cutting"** Total or partial removal of trees, over any period of time, from a site involving more than one (1) acre of land and which results in: a) a clear cutting of a forest stand (sometimes referred to as "Liquidation"); or b) an obvious visual modification to the forest overstory as viewed from a Public Highway.

15.6.10 **"Public Highway"** Any Town Highway located within the Town of Pomfret which has a designation of Class 1, Class 2, or Class 3.

15.6.11 **"Ridgeline and Hillside Conservation Areas"** See Section 15.4.1

15.6.12 **"Ridgeline"** The crest of any of the primary ridges (including any trees thereon) in the Town of Pomfret depicted on the map described in Section 15.4.1 as viewed from Significant

Viewpoints on Pomfret's Public Highways and/or Critical Public Vantage Points.

15.6.13 **"Screening"** Natural or newly planted trees or shrubs which at the time of approval or at the time of planting would have the effect of properly and adequately concealing from view as of the initial completion of the proposed Land Development and at all times of the year any building or part thereof located in a Ridgeline and Hillside Conservation Area as viewed from a Public Highway. Such screening may allow views through it from the building being concealed.

15.6.14 **"Significant Viewpoints on Pomfret's Public Highways"** Points or places located on or immediately adjacent to Pomfret's Class 1, 2 or 3 Public Highways from which the proposed development is visible as such point or points may be considered by the Pomfret Planning Commission in evaluating a formal application. In selecting or determining particular Significant Viewpoints on Pomfret's Public Highways, the Pomfret Planning Commission shall give consideration to:

- a) the duration of the view of the proposed development to the traveling public;
- b) the frequency of the view of the proposed development as experienced by the traveling public;
- c) the degree of obstruction to the view of the proposed development as affected by existing vegetation, the topography of the land, and existing structures;
- d) contributing or detracting background features in the view of the proposed development;
- e) the distance to the view from the vantage point; and
- f) the number of cars traveling on the Public Highway at or near the significant viewpoint.

15.6.15 **"Skyline"** The natural outline (of trees when wooded and of land when open) of a range of hills or mountains against the background of the sky as viewed from a Public Highway.

15.6.16 **"Tree"** Any live tree having a trunk diameter, or caliper, of greater than two inches (2") measured at its base next to the ground level. This definition shall exclude any tree which has been substantially damaged by natural elements and which constitutes a danger to property or persons.

15.6.17 **"Undue Adverse Effect"** There is a two step process in determining whether or not a proposed Land Development constitutes an "undue adverse effect":

- 1) Is the proposed land development in harmony with the existing scenic and natural beauty (the pleasing qualities that emanate from nature and from Pomfret's ridges and hillsides) of the land proposed to be developed as viewed from Critical Public Vantage Points? If the answer to this question is in the negative, then the proposed land development is

deemed to be "adverse" or unfavorable or hostile.

- 2) If the proposed land development is determined to be "adverse", then the next question is: Is the "adverse" effect on the land proposed to be developed more than is necessary or appropriate as viewed from Critical Public Vantage Points? If the answer to this question is in the affirmative, then the proposed development is deemed to have an "undue adverse effect." In making this determination, the Planning Commission is to determine whether or not the "adverse" effect of the proposed land Development offends the sensibilities of the average person; that is, does the proposed Land Development significantly diminish the existing scenic qualities of the land proposed to be developed as viewed from Critical Public Vantage Points? The Planning Commission members, being a cross section of the Pomfret population, are deemed to collectively represent the "average person" and their collective decision on this question shall be controlling.

15.7 Procedures Available under Part 15

There are three distinct procedures available to a land owner under this Part 15. The Prehearing and Expedited Hearings are alternative procedures which are made available to avoid unnecessary or unreasonable costs to a landowner and, when possible, to expedite a decision desired or required from the Planning Commission under the provisions of this Part 15. Landowners and potential applicants are encouraged to contact the Chairman of the Planning Commission for clarification of these available procedures and for suggestions as to which procedure may be best suited. These procedures are as follows:

15.7.1 Pre-Hearing Conference. A Pre-Hearing Conference is an informal conference between a landowner and the Planning Commission (or its duly authorized representative(s)) for the general purposes of obtaining nonbinding clarification of the provisions of this Part 15, obtaining nonbinding suggestions for amendments or changes to any proposed land development, and obtaining approval to provide less than the normally required information to accompany an application for an Expedited Hearing or a Formal Hearing. These purposes are more specifically defined as follows:

- a) To obtain an initial nonbinding Visual Impact Review by the Planning Commission of the general nature, extent and characteristics of the proposed land development and to obtain from the Planning Commission nonbinding suggestions for possible amendments or changes to the proposed land development to lessen its impact upon the existing scenic qualities of the town and to reduce the extent of information and material which may be necessary or desirable for an Application for an Expedited Hearing or a Formal Hearing for the proposed land development.
- b) To obtain an initial nonbinding Visual Impact Review by the Planning Commission of the general nature, extent and characteristics of the proposed land development and to obtain from the Planning Commission: 1) a determination of the extent and content of the information and material necessary or desirable for an application in order to allow the Planning Commission to properly review and evaluate the proposed land development; and 2) the number and locations of suggested Critical Public Vantage Points from which

the proposed Land Development is to be viewed pursuant to Section 15.11(f).

15.7.2 Expedited Hearing. An Expedited Hearing is an abbreviated alternative to a Formal Hearing. It is a formal noticed Hearing by the Planning Commission which can be held at the request of a landowner for the general purposes of deciding whether or not a proposed land development is exempt under the provisions of Part 15; reviewing a proposed land development that is believed not to have any substantial or adverse effects on either the views of the Ridgeline and Hillside Conservation Areas nor on the Environment of the area in and around the proposed development; or to obtain a formal clarification of the provisions of this Part 15. These purposes are more specifically defined as follows:

- a) To obtain a finding from the Planning Commission as to whether or not the proposed land development is exempt from the provisions of Part 15 of the Pomfret Zoning Regulations by virtue of the provisions of 15.3.5, that is, a decision that the proposed activities are not within an existing or planned Building Site, that all of the proposed cutting constitutes the practice of good forestry management, that the proposed activity is one of those specifically set forth in Section 15.3.5 of this Part 15 of the Pomfret Zoning Regulations and that all of the cutting related to such proposed activity does not 1) involve a clear cutting of a forest stand; nor 2) cause an obvious visual modification to the forest overstory as viewed from a Public Highway.
- b) To obtain a written Visual Impact Approval from the Planning Commission for those activities set forth in Section 15.3.6, that is, a decision that the proposed activities or development will not have a substantial effect on the current and existing views of the Ridgeline and Hillside Conservation Areas as viewed from Pomfret's Public Highways nor have a substantial effect upon the environment of the area in and around the proposed land development; with approval or disapproval of the proposed land development as presented or amended by the Pomfret Planning Commission.
- c) To obtain clarification of the provisions of this part 15 as it may apply to any proposed land development, including a finding of the exact location of the boundaries of a Ridgeline and Hillside Conservation Area as it affects a proposed land development. The granting of an Expedited Hearing for this purpose shall be under the discretion of the Chairman of the Planning Commission.

15.7.3 Formal Hearing. A Formal Hearing is a formal noticed Hearing by the Planning Commission to review any proposed land development within a Ridgeline and Hillside Conservation Area of the provisions of this Part 15 and to obtain Visual Impact Approval for the proposed land development or to obtain clarification of the provisions of this Part 15 as it may apply to any proposed land development, including a finding of the exact location of the boundaries of a Ridge and Hillside Conservation Area as it effects a proposed land development.

15.8 Applications for Pre-Hearing Conferences or Expedited Hearings.

An Application by a Landowner for a Pre-Hearing Conference or an Expedited Hearing under this Part 15 shall be completed on the Form provided by the Planning Commission and shall

include at least the following information:

- a) The name and address of the record landowner or landowners and all other parties with an interest in the property where the proposed land development is to take place. Other interested parties would include any prospective purchaser of the property, any person or entity who or which will be performing any substantial work on or for the proposed land development, and any duly appointed agents or attorneys of any party.
- b) A map or sketch of the town with the property proposed to be developed marked or a statement of sufficient detail to locate the property within the Town of Pomfret.
- c) A map or sketch of the property proposed to be developed drawn approximately to scale and with the area to be developed suitably marked or indicated and with all abutting property owners clearly indicated. The site shall also be designated on the ground with flags or stakes.
- d) The names and addresses of the record owners of all property abutting the property proposed to be developed.
- e) A general statement on the principal elements of the proposed land development including information as to the type and extent of the proposed development. This shall include a description of the residence, structure, garage, tower, etc., all existing and proposed exterior lighting, exterior finish and color of proposed buildings, and any change of use proposed.
- f) A statement as to what action is requested of the Planning Commission.

Applicants are encouraged to ask the Chairman of the Planning Commission for help in completing the Application for a Pre-Hearing Conference or an Expedited Hearing.

15.9 Procedures for Pre-Hearing Conferences.

15.9.1 A Pre-Hearing Conference shall be conducted by the Planning Commission or by its duly authorized representative or representatives within thirty (30) days following receipt by the Planning Commission of an Application for a Pre-Hearing Conference (as defined in Section 15.8).

15.9.2 A Pre-Hearing Conference may be conducted by a member representative(s) of the Pomfret Planning Commission who may be specifically appointed by the Chairman of the Planning Commission.

If specifically requested by an applicant, the Pre-Hearing Conference shall be with the Planning Commission rather than by its duly authorized representative(s); otherwise it shall be at the discretion of the Chairman of the Planning Commission as to who conducts and participates in a Pre-Hearing Conference.

There shall be no requirement for any public notice for a Pre-Hearing Conference, except for the meeting requirements for any regular or special meeting of the Planning Commission, with no requirement for any special notice of the actual Pre-Hearing Conference if it is conducted during any regular or special meeting of the entire Planning Commission. The Chairman of the Planning Commission may, however, decide to provide formal notice of the Pre-Hearing Conference in the same manner as for a Formal Hearing.

Unless waived by the Applicant, the Applicant shall have at least seven (7) days written notice of any Pre-Hearing Conference.

15.9.3 A Pre-Hearing Summary shall be issued by the Planning Commission, or its duly appointed representative(s), if so conducted, stating the results of the Pre-Hearing Conference and specifically setting forth:

- a) any information and material not required to be provided in any Application for a Formal Hearing which may be filed by the landowner for the proposed land development;
- b) a determination of the extent and content of the information and material necessary or desirable for a formal application in order to allow the Planning Commission to properly review and evaluate the proposed land development; and
- c) a determination of the number and locations of the Critical Public Vantage Points to be used for the Application for a Formal Hearing described in Section 15.11(f).

Copies of the Pre-Hearing Summary shall be mailed or delivered to the Applicant within fifteen (15) days following the Pre-Hearing Conference unless such time requirement has been waived by the Applicant.

15.10 Procedures for Expedited Hearings.

15.10.1 An Expedited Hearing shall be conducted by the Planning Commission within thirty (30) days following receipt by the Planning Commission of a complete Application for an Expedited Hearing (as defined in Section 15.8).

15.10.2 There shall be formal public notice for an Expedited Hearing in the same manner as for a Formal Hearing.

Unless waived by the Applicant, the Applicant shall have at least twenty-one (21) days written notice of an Expedited Hearing.

15.10.3 An Expedited Hearing Order shall be issued by the Planning Commission, stating the findings made by the Planning Commission and its Decision on the item or items requested to be addressed in the Application.

A finding by the Planning Commission that the proposed land development will have a substantial effect on the current and existing views of the Ridgeline and Hillside Conservation

Areas as viewed from Pomfret's Public Highways, or will have a substantial effect upon the environment of the area in and around the proposed land development will require the Planning Commission, in its discretion, to either

- a) Require changes to the proposed land development and/or landscaping which will have the effect of negating the substantial effect; or
- b) Require the landowner to file an Application for a Formal Hearing under this Part 15.

Copies of the Expedited Hearing Order shall be mailed or delivered to the Applicant within thirty (30) days following the closing of evidence and time for providing of any Memorandum or Requested Findings unless such time requirement has been waived by the Applicant.

15.11 Applications for Formal Hearings.

An Application by a Landowner for a Formal Hearing under this Part 15 shall be completed on the Form provided by the Planning Commission. An Application may include maps, plans, drawings, and sketches. Unless the Applicant has received a Pre-Hearing Summary from the Planning Commission which limits the information and materials necessary, all Applications shall include at least the following information:

- a) The name and address of the record landowner or landowners and all other parties with an interest in the property where the proposed land development is to take place. Other interested parties would include any prospective purchaser of the property, any person or entity who or which will be performing any substantial work on or for the proposed land development, and any duly appointed agents or attorneys of any party.
- b) A map or sketch of the town with the property proposed to be developed marked, or a statement of sufficient detail to locate the property within the Town of Pomfret.
- c) A map or sketch of the property proposed to be developed drawn approximately to scale and with the area to be developed suitably marked or indicated and with all abutting property owners clearly indicated. The site shall also be designated on the ground with flags or stakes.
- d) The names and addresses of the record owners of all property abutting the property proposed to be developed.
- e) A general statement on the principal elements of the proposed land development including information as to the type and extent of the proposed development.
- f) An accurate drawing of the proposed land development in its finished state as viewed from at least three (3) separate Significant Viewpoints on Pomfret's Public Highways within the town of Pomfret (or from the Critical Public Vantage Points if determined by the Pomfret Planning Commission in a Pre-Hearing Order) depicting the site proposed and including all buildings, alterations, additions, access roads and other uses. The

drawings shall show the treatment of the scenic resources present on the proposed site as related to those resources which are adjacent to the proposed site. An application shall include photographs of the land proposed to be developed taken from each of the Significant Viewpoints on Pomfret's Public Highways (or taken from the Critical Public Vantage points if chosen by the Pomfret Planning Commission in a Pre-Hearing Order) with respect to the Building Site. All Applicants are urged to submit an Application for a Pre-Hearing Conference so that the Pomfret Planning Commission can determine the number and locations of the Critical Public Vantage Points to be used for the Application for a Formal Hearing and the Pomfret Planning Commission has the information necessary for it to make a decision. Applicants who choose their own Significant Viewpoints on Pomfret's Public Highways risk delays or denial of the Application if those Significant Viewpoints on Pomfret's Public Highways are not adequate for the Planning Commission.

- g) The placement, building height, and physical characteristics of all existing buildings and proposed buildings, alterations, additions, and other improvements or structures located in or proposed for the project site. This shall include a description of the residence, structure, garage, tower, etc., all existing and proposed exterior lighting, exterior finish and color or proposed buildings, and any change of use proposed.
- h) A detailed landscaping plan of existing vegetation, vegetation proposed to be removed, and all proposed landscaping improvements including plans depicting the type, bulk and height of trees and shrubs at the time of planting.
- i) The locations, slopes, and dimensions of existing and proposed driveways and parking areas serving or to serve the proposed land development, including details of all entrance and exit points on Town Highways.
- j) The size and location of existing and proposed above ground and below ground utility lines serving or to serve the proposed land development.
- k) The existing and finished topography of the project site, including existing and proposed drainage systems and erosion control plans.
- l) A diagram and description of all existing and proposed wastewater disposal systems designed to serve the project site, including any related plans, drawings, tests, or charts relevant to the systems. See Section 15.12 for additional requirements.
- m) Any other information that is relevant or necessary for the proper consideration of the Application by the Planning Commission, including any specific information or materials required by any Pre-hearing Summary issued by the Planning Commission.
- n) A statement as to what action is requested of the Planning Commission.

Applicants are encouraged to ask the Chairman of the Planning Commission for help in completing the Application for a Formal Hearing.

15.12 Requirements for Wastewater Permit.

In the event that an Application for a Formal Hearing contemplates, necessitates or requires that a proposed structure be served by a wastewater disposal system which is subject to the standards or requirements of one or more permits from the State of Vermont, all such required permits or certificates of compliance must be obtained prior to issuance of final approval of the Application by the Planning Commission.

15.13 Procedures for Formal Hearings.

15.13.1 A Formal Hearing shall be conducted by the Planning Commission within thirty (30) days following receipt by the Planning Commission of a complete Application for a Formal Hearing (as defined in Section 15.11).

15.13.2 There shall be formal public notice for a Formal Hearing as set forth in Section 15.14.

Unless waived by the Applicant, the Applicant shall have at least twenty-one (21) days written notice of a Formal Hearing.

15.13.3 A Final Hearing Order shall be issued by the Planning Commission, stating the findings made by the Planning Commission and its Decision on the item or items requested to be addressed in the Application.

Copies of the Final Hearing Order shall be mailed or delivered to the Applicant within thirty (30) days following the closing of evidence and time for providing of any Memorandum or Requested Findings unless such time requirement has been waived by the Applicant.

15.14 Requirements for Public Notice.

Upon filing of an Application for an Expedited Hearing or a Formal Hearing with the Clerk of the Planning Commission, the Commission shall promptly give notice for and conduct a Hearing in accordance with the rules of procedure as set forth in 24 V.S.A., Section 4464. These rules of procedure currently require:

15.14.1 Public Notice for a Hearing shall be given not less than 15 days prior to the date of the public hearing by the following:

- a) Publication of the date, time, place, and purpose of the hearing in a newspaper of general circulation in Pomfret.
- b) Posting of the date, time, place, and purpose of the hearing in three or more public places within the town of Pomfret in conformance with location requirements of 1 V.S.A. Section 312(c)(2).
- c) Posting of the date, time, place, and purpose of the hearing within view from the public

right-of-way most nearly adjacent to the property for which an application is made.

d) Written Notification of Hearing 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 the additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.

15.14.2 The Planning Commission shall prepare the above notices, shall cause to be published and post the notices specified in 15.14.1(a) & (b) & (c), and shall forward the written notice specified in 15.14.1(d) to the applicant with instructions that it is the responsibility of the applicant to deliver the Notice of Hearing to the adjoining property owners either by written notice mailed to their last know address or by written notice hand delivered to them or to their last known address. The applicant shall provide proof of such delivery by a Sworn Certificate of Service at or before the time of the Hearing.

15.15 Criteria for Visual Impact Approval.

15.15.1 In addition to the other provisions or standards as prescribed in this Ordinance, the Planning Commission shall, before granting Visual Impact Approval, find that the proposed Land Development shall substantially satisfy the following general criteria:

- a) the proposed Land Development will not have an undue adverse effect on the scenic and natural beauty of the land proposed to be developed as viewed from Significant Viewpoints on Pomfret's Public Highways and/or Critical Public Vantage Points; and
- b) the proposed Land Development will not cause unreasonable soil erosion so that a dangerous or unhealthy condition may result.

15.15.2 Prior to granting Visual Impact Approval and in the evaluation of the general criteria above, the Planning Commission shall find that any proposed Land Development shall substantially satisfy the following specific criteria, where applicable:

- a) **Building Characteristics.** Building Height shall not exceed thirty-five (35) feet (See definition of Building Height at 15.6.3);
- b) **Building or Structure Placement.** The placement of buildings, alterations or additions thereto, and other structures shall not detract from the visual setting or obstruct significant views. Buildings, alterations, or additions thereto and structures shall be placed downgrade of the ridgeline and shall be constructed and maintained in a manner as not to break the view or exceed the elevation of the skyline or a ridgeline as viewed from Significant Viewpoints on Pomfret's Public Highways and or from Critical Public Vantage Points. In planning a site for a building, alteration or addition thereto or other structures, the applicant, where applicable, shall consider placement of such structures within or adjacent to forest areas for the purpose of maintaining the scenic attractiveness

of open spaces;

- c) **Landscaping.** The removal of native vegetation, especially large timber, shall be minimized and the replacement of vegetation and landscaping shall be compatible with the vegetation of the designated area. Landscaping and plants shall be utilized to properly and adequately screen buildings in open or prominent areas from Significant Viewpoints on Pomfret's Public Highways and/or from Critical Public Vantage Points, both when installed and when mature;
- d) **Above Ground Utilities.** Where economically feasible, utility lines in open areas, or where natural vegetation prevents screening or partial screening shall be constructed and routed underground;
- e) **Grading.** The alteration of the natural topography of the project site shall be minimized and shall avoid detrimental effects to the visual setting of the Land Development. Major alterations of the natural topography shall be screened from Significant Viewpoints on Pomfret's Public Highways and/or Critical Public Vantage Points; and
- f) **Access Roads.** Construction or improvement to access roads, to the extent possible, shall follow the contour of the land. The finished center line grade shall not exceed fourteen (14%) for a private road serving three or fewer lots and shall be not more than ten percent (10%) for a private road serving four or more lots.. A waiver of this requirement may be granted after consultation with Emergency Services personnel to allow a steeper grade for portions of a private road. Access roads, when consistent with the intent of these Regulations and economically feasible, shall be constructed or improved within existing forest or forest fringe areas and not in open fields or meadows.

15.15.3 The Planning Commission shall have full authority to impose conditions consistent with the intents and objectives of this Part 15 upon any Visual Impact Approval granted; such conditions may include, but are not be limited to, the following:

- a) A requirement to plant and maintain for the life of the structures erected trees and other landscaping to screen the proposed Land Development.
- b) A prohibition of trimming, pruning, thinning or cutting any trees located within the perimeter of an existing, proposed or approved Building Site, and/or within any of the land owned by the applicant when such trees provide or will provide screening of the proposed Land Development, without the prior approval of the Planning Commission. Such a prohibition may specifically exclude minimum trimming to maintain a power or telephone line right of way.
- c) A requirement to replace with like trees any existing trees or trees specifically required to be planted which may die in the future.
- d) A requirement to submit reports on completion of any planting required.

- e) Notice that any violation of any condition of a Visual Impact Approval will constitute a violation under the terms of the Pomfret Zoning Regulation.
- f) A requirement to record in the Pomfret Land Records a Notice of Visual Impact Approval and its conditions along with notice that such conditions run with the land and therefore are binding upon all future owners of the property.
- g) A requirement that any buyer of the land subject to the Visual Impact Approval be given a copy of the full decision of the Planning Commission including its conditions prior to the time of entering into a binding purchase and sale agreement for the property.

15.16 Independent Technical Review.

The Planning Commission may hire consultants for independent technical review of any application and may further require the applicant to pay for reasonable costs of such, as may be authorized by procedures and standards established by the Selectmen.

15.17 Special Provisions for Violations of Part 15.

In addition to the other penalties and remedies available in the event of a violation of the Pomfret Zoning Regulations, as such penalties and remedies may be set forth in these Zoning Regulations and the Vermont Statutes Annotated, any person or entity who or which violates any provision of this Part 15 in relation to removal, cutting, trimming or pruning of any tree or other landscaping planted in accordance with any land development submitted to the Planning Commission or required to be planted or maintained by any Visual Impact Approval shall subject the person or entity violating such provision, and the owner of the property, to an order and requirement to promptly replace such tree or other landscaping with a similar species of at least the same size and shape as those removed, cut, trimmed or pruned and at the same location, all at the discretion of the Planning Commission. Any failure to comply with the terms of any such order or requirement of the Planning Commission shall be deemed to be a separate violation of the Pomfret Zoning Regulations and may be enforced by the Planning Commission.

Original Adoption: The original Part 15 – Ridgeline and Hillside Conservation Areas of the Pomfret Zoning Ordinance was adopted by a vote of the Town of Pomfret on March 7, 1989.

Amendment and Restatement in its Entirety: Part 15 – Ridgeline and Hillside Conservation Areas of the Pomfret Zoning Ordinance was amended and restated in its entirety by the Pomfret Board of Selectmen at a meeting duly warned for that purpose on July 2, 2008.