

# **POMFRET ZONING ORDINANCE**

**Including Ridgeline and Hillside Conservation Areas Amendment**

**As Amended 12-11-73, 3-4-75, and 3/7/89**

Superseded by Zoning Ordinance  
adopted May 6, 2020

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## **PART 1 - TITLE**

- 1.1 This ordinance shall be known and cited as the Pomfret Zoning Ordinance. It is based on state law and all references to "sections" of the state law are to Chapter 91, Title 24 VSA.

## **PART 2 - PURPOSES**

- 2.1 **PURPOSES:** The purposes of this ordinance are: to provide for the orderly future growth of the Town of Pomfret, Vermont; to prevent accidents and the loss of peace, quiet and privacy resulting from over-crowding and roadside congestion; to facilitate the adequate provision of schools and other public requirements while checking the growth in property taxes; to preserve and encourage agricultural, residential and recreational uses; to reduce the harm that one land use might have on another and, in general, to protect the value of property; to protect soil, forests, streams and other natural resources; and to provide a clean and attractive environment for all inhabitants of Pomfret; and all further purposes provided for in Title 24 VSA, Section 4302.

## **PART 3 - DISTRICTS AND PERMITS**

- 3.1 The entire Town of Pomfret is classified as one Rural Residential District.
- 3.2 For the purposes of this ordinance, land uses are classified as follows: Uses not Requiring a Permit, Conforming Uses Requiring a Permit, Non-conforming Uses Requiring Permits, Prohibited Uses.
- 3.3 Permits issued under the terms of this ordinance shall identify the use or occupancy and structure involved, whether conforming or non-conforming and if non-conforming shall specify particulars of the permitted variances.
- 3.4 Permits involving construction or establishment of conforming and non-conforming uses, buildings and structures under Parts 6 and 7 shall expire unless that construction begins within one year from date of issue.
- 3.5 Existing uses and structures do not require permits whether conforming or non-conforming. Upon request of a property owner, the Administrative Officer and the Board of Adjustment are required to issue permits for these existing uses and structures.

## **PART 4 - DEFINITIONS**

- 4.1 The following definitions shall apply throughout this ordinance unless the context otherwise requires:
- 4.2 "AUSTRALIAN BALLOT": shall mean a vote on a printed form filled out in secret and deposited in a closed ballot box during the hours designated for the purpose at a duly warned Town Meeting. No discussion of the subject of the vote may take place on the day of the meeting.
- 4.3 "COMMENCE" or "BEGIN": shall mean any physical activity indicating the beginning of any kind of construction or emplacement of a structure, including, without limitation, clearing of land, earth movement, and bringing in construction materials, or drilling a well.

- 4.4 "COMMERCIAL SALE OR LEASE": any transaction or agreement, written or unwritten, intending to effect sale, lease or rental, including options and conditional sales agreements, for any purpose to any person, excluding from this definition, however, transactions among members of the same family consisting of parents, children, sons-in-law or daughters-in-law by blood or adoption.
- 4.5 "CONFORMING USE": single, one-family or two family residence, agricultural buildings, home business.
- 4.6 "NON-CONFORMING USE": uses other than conforming uses.
- 4.7 "CONFORMING STRUCTURE": a building or other structure located wholly outside the setback limits.
- 4.8 "NON-CONFORMING STRUCTURE": a building or other structure located wholly or partially within the setback limits.
- 4.9 "EXISTING USE": any use existing at the time of adoption of this ordinance; and specifically with reference to mobile homes, the term shall mean that the structure shall have been emplaced and connected to a septic system; and with reference to all other residential structures the term shall mean that a permanent foundation and the septic system shall have been completed.
- 4.10 "HOME BUSINESS": a commercial activity carried on entirely within a building and secondary to the use of the premises as a one or two-family residence, including the letting of rooms or the furnishing of board by a resident of the premises.
- 4.11 "PERSON": an individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.
- 4.12 "RESIDENT": one who makes his principal residence in Pomfret.
- 4.13 "PLANNED DEVELOPMENT": the construction or enlargement for commercial sale or lease of two or more dwelling units within two years.
- 4.14 "SETBACK": the distances between any structure, or any part thereof, and the side property lines of the parcel on which said structure stands; also the distance from a public road or public right-of-way to or past said structure.
- 4.15 "SMALL LOT": any lot in individual, non-affiliated and separate ownership from surrounding properties, provided it is not less than one-eighth of an acre with a minimum width or depth of 40 feet.
- 4.16 "STRUCTURE": an assembly of materials for occupancy or use, including without limitation, a building, mobile home, camper-trailer, sign or immobile operating equipment such as a gasoline pump. For the purposes of this ordinance the term does not include pond dams, stone walls, fences, or mobile operating equipment.
- 4.17 This section is stricken out.
- 4.18 "TRACT": used interchangeably and with same meaning as PARCEL or LOT --all contiguous land belonging to a person in the Town of Pomfret regardless of how or when obtained. Land in common ownership on opposite sides of a public or private right-of-way constitutes a single lot.

- 4.19 "USES" or "LAND USES": very broad terms and mean anything done with land or structures thereon.
- 4.20 "COMMERCIAL MINING": any surface or subsurface extraction within the Township of Pomfret of any gas, liquid or solid matter, including, without limitation, natural gas, petroleum, soil, sand, gravel, stone, metals or metallic ores intended for ultimate sale by the miner or any affiliated person before or after further processing, either within or outside the Township of Pomfret. Extraction by a Pomfret landowner or lessee for his own use to be used and/or consumed solely on his owned or leased premises, does not constitute commercial mining for the purposes of this ordinance.
- 4.21 "ULTIMATE SALE": means the transfer of title or use for any consideration having any direct or indirect value which can be measured in monetary terms.
- 4.22 "DWELLING UNIT": without limitation, includes any one-family structure, half of a two-family structure, an apartment or any separate quarters occupied as a residence on a non-transient basis.
- 4.23 "PUBLIC NUISANCE": comprises all of the elements of meaning generally understood by the legal use-of this term, including without limitation, any business, amusement, activity or land. use which creates or results in any sight, sound, smell, pollution or interference with the occupations, amusements or living conditions of people in the neighborhood to such a degree of unpleasantness or in any manner to such an extent that the Board of Adjustment deems it necessary to prevent or abate the alleged nuisance because it constitutes or threatens to become a hazard to health, a danger to persons or property or to have an adverse impact on the convenience, comfort or general welfare of members of the community.
- 4.24 "COMMERC LALLY ACTIVE": This term is used in this ordinance in reference to any use of land or other activity carried on for commercial sale or lease; and it means: not having been suspended for at least one year at the time of adoption of this ordinance or its applicable amendments.

## **PART 5 - USES NOT REQUIRING A PERMIT**

- 5.1 Existing uses of land commercially active at the time of adoption of this ordinance or its applicable amendments or structures existing at adoption of this ordinance or its applicable amendments; and the maintenance, repair, replacement or conforming extension of same, provided they do not violate state laws.
- 5.2 Existing structures and/or land may be sold and resold for the same use, provided this does not create a sub-division as defined in Part 4.
- 5.3 Agricultural uses other than the building or emplacement of new structures larger than those defined in 5.4 below.
- 5.4 The construction or emplacement of a conforming new unattached accessory structure not larger than 24 feet x 24 feet x 15 feet high.
- 5.5 Continuation of existing home business.

- 5.6 Signs not exceeding 6 square feet in size may advertise an on-premises business; may be illuminated with non-flashing lights. With the consent of the land owner an off-premises sign less than 6 square feet in size, not illuminated, may be installed to provide directions to a home or agricultural business.
- 5.7 With the consent of the landowner, campers and travel-trailers may be emplaced in conforming locations for temporary use (not exceeding two months) without foundations, provided sewage disposal arrangements conform to applicable town ordinances, do not pollute streams and do not present a health hazard.
- 5.8 Change from a non-conforming to a conforming use or occupancy or location.
- 5.9 Existing non-conforming occupancies or structures destroyed by fire or other disaster may be rebuilt and occupancy resumed if reconstruction begins within one year from date of destruction.
- 5.10 Logging operations, while not requiring a permit, must be carried on in such manner as not to hazard or damage public roads or adjoining property or cause unreasonable erosion.

## **PART 6 - CONFORMING USES REQUIRING PERMITS**

- 6.1 The uses of land or structures outlined under this Part 6 do require permits, and the Administrative Officer is required unconditionally to issue such permits without fee for uses meeting the standards set forth below:
- 6.2 Construction or emplacement of a conforming single one-family or two-family residence with customary accessory structures on a lot of not less than two acres having frontage of at least 90 feet if on a public road. Mobile homes, which must be on a foundation and have sewage systems meeting state or town requirements, are considered one-family residences and are subject to all the applicable regulations in this ordinance.
- 6.2.1 In broadest terms one of the objectives of this ordinance is to maintain or create a quantitative ratio between residential structures and dwelling units on the one side and contiguous attached land on the other. The ratio shall be not less than two acres for each residential structure and not less than one acre for each dwelling unit.
- 6.3 Construction or emplacement of conforming structures for agricultural use larger than 24 feet x 24 feet x 15 feet high.
- 6.4 New home business.
- 6.5 In accordance with 24 VSA 4406 (1) existing small Lots may be developed for the purposes permitted in the district in which it is located even though not conforming to minimum lot size requirements.

## **PART 7 - NON-CONFORMING USES REQUIRING PERMITS**

- 7.1 All permitted uses other than those covered by Parts 5 and 6 are non-conforming uses and may not be commenced without a permit issued by the Administrative Officer after approval and authorization by the Board of Adjustment on the concurring vote of a majority of the members of the Board at a meeting after a duly warned public hearing. Applicants for this type of permit (fee of \$10) should fill out an "Application to the Board of Adjustment for a Zoning Permit", blank forms for which can be obtained at the Town Clerk's office.
- 7.1.1 The flood of 1973 has demonstrated again the damage which can be done by rushing water to roads, culverts, bridges, buildings, wells and agricultural land. A possible factor in such flooding is the breaking of a pond dam, depending upon the size and location of the pond. Accordingly, and notwithstanding the provisions of Part 5 of this ordinance, the construction of a pond, whether agricultural or recreational, does require a permit authorized by the Board of Adjustment.
- 7.1.2 Without a permit authorized under Part 7, no tract of real estate may be divided and transferred in title or lease in such a way as to create one or more parcels smaller than two acres, unless the deed or lease withholds from the buyer or lessee, and any successors in interest, the right to use said parcels for residential purposes.
- 7.2 Stationary on-premises signs greater than 6 square feet in size are considered non-conforming uses requiring permits. Such signs may be illuminated with non-flashing lights.
- 7.3 A particular type of land-use included in 7.1 of this ordinance is commercial mining. It has been demonstrated in some other communities in the United States that certain types of commercial mining on any substantial scale can do serious aesthetic and economic damage to the environment as well as affecting adversely the peace and tranquility of the community. Accordingly, it is important to obtain in advance full and detailed disclosure of the applicant's plans for mining operations and post-mining clean-up. The purpose of such disclosure is to give both the community and the Board of Adjustment time and an adequate factual basis to decide whether a mining permit should be granted and what safeguards should be imposed.
- 7.3.1 No commercial mining may be done without a permit authorized by the Board of Adjustment after at least two duly warned public hearings and after the preparation and filing by the applicant, to the complete satisfaction of the Board of Adjustment, of all such operational plans, reports, studies and estimates as the Board of Adjustment may prescribe as appropriate to the scale and gravity of the mining project covered by the application. Without limitation, such operational plans may include a copy of the application(s) made to state and/or federal agencies; a complete operational plan, including a description of trucks, ore-carriers and other equipment and machinery, a description of buildings and a plan for clean-up and restoration after operations have ceased.

- 7.3.2 In the event that any person engages in commercial mining, he is required by this ordinance to perform at least the following work of current repair and/or restoration:
- 7.3.2(a) If damaged by excessive use or overloading of vehicles by the miner or by accident for which the miner is responsible, public roads, bridges and culverts shall be repaired promptly and placed in a condition at least as good as that prevailing before use by the miner and to meet state and/or local requirements.
  - 7.3.2(b) Any open pit shall be left in the condition prescribed by the Board of Adjustment in the permit granted to the miner.
  - 7.3.2(c) Mining shafts shall be back-filled with tailings or other waste or otherwise sealed off as prescribed by the Board of Adjustment.
  - 7.3.2(d) To minimize spreading by erosion, tailings and other waste shall be confined or impounded as prescribed by the Board of Adjustment.
  - 7.3.2(e) At the termination of mining operations all machinery and equipment above ground shall be removed. Structures above ground shall be dismantled and the land on which the structures stood shall be restored as prescribed by the Board of Adjustment.
- 7.3.3 For the purpose of checking compliance with this ordinance the Board of Adjustment and/or its representatives shall have at any time during normal working hours the right to enter and examine all lands, buildings and equipment in use or previously used in Pomfret by the applicant.
- 7.3.4 Any mining operations shall be conducted in such a manner as not to endanger the citizens of Pomfret or their homes, and violation of this provision shall render the mining permit null and void and shall be grounds for petition for a court injunction.
- 7.4 Without a variance, no building or structure or part thereof shall be located closer than 40 feet to the side property line or 60 feet to the edge of a public right of way or 85 feet to the center of the traveled portion of a public right of way, which ever distance is the greater. An "on-premises" sign advertising a home occupation is exempt from the public right of way setback provision but not the side property line set-back provision.

## **PART 8 - PROHIBITED USES**

8.1 The following uses are prohibited in the Town of Pomfret:

- 8.1.1 Any use of land or buildings which affects adversely public health, safety, or welfare; or which is noxious or dangerous; or which pollutes streams or air; or creates any other public nuisance; or as provided in state law.
- 8.1.2 Outdoor signs advertising products or services off the premises of the products or services, except for direction signs to home or agricultural businesses less than 6 square feet in size. (See paragraph 5.6) Also prohibited are moving signs or signs with flashing lighting.
- 8.1.3(a) This section stricken out.



- 8.1.3(b) This subsection stricken out.
- 8.1.3(c) Attempts to circumvent the provisions and purposes of these Regulations through conveyances or transactions not "at arm's length", such as without limitation, transactions with partially or wholly owned corporations or transactions in collusion, shall be considered null and void for purposes of administration and enforcement of these Regulations.
- 8.1.4 All planned developments (see section 4.13 of this ordinance).
- 8.1.5 In accordance with 4406(2) and notwithstanding the provisions of Section 3.2 of these Regulations, land having no frontage on a public road may not be transferred in ownership unless (a) the grantee already has through other adjoining property access to a public road; (b) the grantee permanently waives in a written instrument recorded with the Town Clerk all right to use said land for any purpose requiring access to a public road; or (c) the grantor with the approval of the Commission conveys with said land access to a public road by a permanent easement or right-of-way at least 20 feet in width. Where there appears to be a reasonable possibility that such transfer of land and/or its subsequent use may lead to future requests that the Town of Pomfret assume responsibility for the construction, maintenance or winter plowing of roads along said rights-of-way, the Commission may withhold its approval of the development pending the construction of said roads in accordance with standards provided in PART 7 of the Pomfret Subdivision Regulations as applied by the Pomfret Planning Commission, all at the expense of the developer-seller.
- 8.1.6 In sub-dividing land, thus creating new property lines, it is a violation of this ordinance to place any point on said new line(s) closer than 40 feet to any existing structure or part thereof.
- 8.1.7 In those cases where one or more existing residential structures stand on a parcel of land no action may be taken (whether transfer of a portion of the land, the modification of an existing structure(s) or the construction or emplacement of one or more additional residential structures) which will have the final effect of reducing the ratio of all the land in said parcel to all of said structures (both existing and new) below two acres per residential structure or one acre per dwelling unit.

## **PART 9 - ADMINISTRATION - GENERAL**

- 9.1 Administration of this ordinance shall be as required by Vermont statutes. All references to sections of state law are to Chapter 91, Title 24 VSA.
- 9.2 Complete records of all zoning proceedings shall be kept available to the public at the Town Clerk's office.

## **PART 10 - ADMINISTRATIVE OFFICER**

- 10.1 The Administrative Officer shall be appointed for a term of 3 years by the Planning Commission with the approval of the Selectmen in accordance with the provisions of Section 4442.
- 10.2 The Administrative Officer's principal duties shall be:
- 10.2.1 To receive applications for zoning permits under Part 6 and to issue same, administering this ordinance and the statutes of Vermont literally, with no power to permit any nonconforming land use.
  - 10.2.2 Answers to applications for permits under Part 6 shall be mailed within 15 days of receipt of same and failure to act within said period shall constitute a decision in favor of the applicant.
  - 10.2.3 Permits under Part 7 shall be issued by the Administrative Officer only upon approval and authorization by the Board of Adjustment.
  - 10.2.4 Permits shall be issued to provide one copy each for the applicant, the Town Clerk, the Board of Listers and the Administrative Officer.
  - 10.2.5 To the best of his ability, to be aware of any violation of this ordinance and the applicable statutes, and in the name of Pomfret to institute appropriate action to prevent or correct such violation.
  - 10.2.6 To submit annually to the Board of Selectmen a resume of his proceedings.

## **PART 11 - BOARD OF ADJUSTMENT**

- 11.1 The Board of Adjustment shall consist of not less than three nor more than nine members appointed by the Board of Selectmen, and shall follow the procedure and shall have the powers set forth in Section 4462.
- 11.2 Principal duties of the Board of Adjustment shall be:
- 11.2.1 To receive, hold hearings, and decide upon applications for permits for non-conforming uses under Part 7.
  - 11.2.2 To receive, hold hearings, and decide upon applications for variances.
  - 11.2.3 To hear and decide appeals from rulings by the Administrative Officer. At any time, any interested person, as defined in Section 4464, may appeal any decision or act taken, or any failure to act, under this ordinance by filing a notice of appeal with the secretary of the Board of Adjustment and paying a fee of \$10. Such notice must be filed within 15 days of such decision and a copy of such notice shall be filed with such officer. Forms for appeals can be obtained at the Town Clerk's office.

- 11.3 Before authorizing a permit under Part 7 the Board of Adjustment shall find that the proposed use conforms with the Town Plan and by-laws then in effect; and further that said use will not:
- 11.3.1 Unreasonably burden the town to provide to the site municipal services, including but not limited to: highway maintenance, fire and police protection, and school bus service.
  - 11.3.2 Create a health hazard because of inadequacy of water supply and sanitary facilities or for other reasons.
  - 11.3.3 Create a pedestrian or vehicular hazard or congestion because of inadequate parking, loading or storage facilities or other factors.
  - 11.3.4 Lead to or be subject to flooding, ponding, or soil erosion at the proposed site.
  - 11.3.5 Create a public nuisance or adversely affect the character of the area as well as the comfort, convenience and general welfare of the community.
- 11.4 In considering an appeal for a variance under paragraph 11.2.2, the Board of Adjustment shall be guided by the standards set forth in Section 4468 as well as the provisions of this ordinance, with particular reference to paragraph 11.3 and subparagraphs 11.3.1 - 11.3.5.
- 11.5 Hearings conducted by the Board relative to non-conforming uses (Part 7) shall be duly warned and shall be held within 60 days of receipt of the applications. Decisions on these applications shall be rendered within 45 days after completion of the relevant hearings, and failure to act within this period shall constitute a decision in favor of the applicant and the Administrative Officer shall be deemed to have authorization to issue the permit applied for.
- 11.6 Hearings on appeals shall be duly warned and the appellant shall receive a copy of the warning at least 15 days prior to the hearing. Such hearings shall be held within 60 days of the filing of notice of appeal. Decisions on appeals must be rendered within 45 days after completing the relevant hearings, and failure to act within this period shall constitute a decision in favor of the appellant and the Administrative Officer shall be deemed to have authorization to issue the permit applied for.
- 11.7 All decisions by the Board of Adjustment, whether on applications or appeals, shall be reached by the concurrence of a majority of the Board present and eligible to vote on the application or appeal after a duly warned public hearing. Only those members of the Board who were present at said public hearing are eligible to vote on said application or appeal. Such decisions shall be in writing, setting forth the findings on which the decision is based. Decisions shall not be arbitrary or discriminatory.
- 11.8 The Board of Adjustment may reject an appeal without hearing only in accordance with 4470 (b).
- 11.9 At its sole discretion, the Board of Adjustment may retain the services of attorneys, engineers or other specialists; and shall impose an appropriate application fee considering estimated or actual costs thereof.

- 11.10 In approving applications for permits under Part 7 or in granting appeals under 11.2.-2 and 11.2.3, the Board of Adjustment may impose such reasonable conditions or performance standards (for work in progress as well as current repair of damage or wear of public facilities and, additionally, final restoration and clean-up) as it may deem necessary to implement the purposes and relevant provisions of this ordinance and to safeguard public welfare.
- 11.10.1 To assure the execution of imposed conditions or performance standards the Board of Adjustment may require the posting of a bond or bonds of such source, terms, and size as it deems appropriate to the scope and gravity of the project under consideration.
- 11.10.2 Where the applicant is a corporation and the project under consideration seems likely to run over a number of years, the Board of Adjustment may require as a condition-precedent, the filing of a plan of operations satisfactory in scope and detail to the Board of Adjustment and may further require an agreement both by the applicant and its top parent company, if any, that the plan will be adhered to faithfully.
- 11.11 Any interested person, as defined in Section 4464, may appeal a decision by the Board of Adjustment to the superior court of the county in which is located the property at issue in the decision. The appeal shall be taken in accordance with Section 4471 and further references therein. Written notice of such appeal must be filed with the secretary of the Board of Adjustment within thirty (30) days of the date of entry of the decision against which the appeal is to be taken.

## **PART 12 - VIOLATIONS AND PENALTIES**

- 12.1 Any person who violates any provision of this ordinance may be fined not more than \$50 for each day the violation is in effect, provided however that the offender must have had at least 7 days notice that a violation exists. This notice shall be sent to the offender by certified mail, return receipt requested.

## **PART 13 - AMENDMENTS**

- 13.1 This ordinance can be amended in accordance with the applicable provisions of Chapter 91, 24 VSA.
- 13.2 An amendment may be submitted by the Board of Selectmen or by a petition of 3 per cent of the legal voters.

## **PART 14 - VALIDITY**

- 14.1 If any section or provision of this ordinance is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the ordinance as a whole or of any part other than the portion so adjudicated.

It is proposed that the Pomfret Zoning Ordinance be amended by adding the following new PART 15 - RIDGELINE AND HILLSIDE CONSERVATION AREAS to the existing Pomfret Zoning Ordinance:

## **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 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 Section 3.16 is 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 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 sugarbush 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 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 "Pomfret, Vermont - Ridgeline and Hillside Conservation Areas", dated November, 1987.

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') of the centerline of any 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 Site Plan 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 Site Plan 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;
- 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;
- k) Any cutting of a tree or trees within an existing or planned Building Site.

15.5.2 Exception: Except as may be incidental to any development as defined above, a change in use of a building or in the type of occupancy shall not require Site Plan Approval for Ridgeline and Hillside Conservation Areas under this Part 15.

Proposed Amendment to Pomfret Zoning Regulations Page 7 Ridgeline and Hillside Conservation Areas - Approved by Board of Selectmen - Jan. 24, 1989  
15.6 Definitions.

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 roof of the proposed building to the elevation of the lower of a) the lowest finished grade at the walls of the building; or b) the lowest original grade at the walls of the building.
- 15.6.4 "Building Site" The land around a proposed or existing house consisting of a square area containing two (2) acres of land with the proposed or existing house being located in its center.



15.6.5 "Critical Public Vantage Point" A point or place located on or immediately adjacent to a 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 Critical Public Vantage Points are simply reference points to be used and referenced in an application and are not meant to limit the Significant Viewpoints on Pomfret's Public Highways 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 "Primary Highways" Those public highways used by the Pomfret Planning Commission in arriving at the Ridgeline and Hillside Conservation Areas.

15.6.11 "Public Highway" Any Town Highway located within the Town of Pomfret

which has a designation of Class 1, Class 2, or Class 3.

15.6.12 "Ridgeline and Hillside Conservation Areas" See Section 15.4.1

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 completely concealing from view 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 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 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 of feet":

- 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 significant viewpoints on Pomfret's public highways? 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 significant viewpoints on Pomfret's public highways? 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 significant viewpoints on Pomfret's public highways? 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 Pre-hearing 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 non-binding 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 a Regular Hearing. These purposes are more specifically defined as follows:
  - a) To obtain a 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 a Formal Hearing for the proposed land development.
  - b) To obtain a 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 a formal 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 Regular Hearing. It is a formal and warned 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 affects 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 Site Plan 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 Site Plan 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 Ridge 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 Regular Hearing. A Regular Hearing is a formal and warned 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 Site Planning 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.
- 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) 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 as 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 formal application pursuant to 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 an 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 or proposed Site Plan 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 or the proposed Site Plan which will have the effect of negating the substantial effect; or b) deny Site Plan Approval as presented, but in the case of such denial, the landowner may 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.
- 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 and critical public vantage points located at public highways within the town of Pomfret 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 critical public vantage points with respect to the Building Site. All Applicants are urged to submit an Application for a Pre-Hearing Conference so that the critical public vantage points will provide the information necessary for the Planning Commission to make a decision. Applicants who choose their own critical public vantage points risk delays or denial of the Application if those critical public vantage points are not adequate for the Planning Commission.
- g) The placement, height, and physical characteristics of all existing buildings and proposed buildings, alterations, additions, and other improvements or structures located on or proposed for the project site.
- h) The 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.
- o) 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 Town of Pomfret and/or 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. When obtained, the following permits or certificates of compliance shall create a rebuttable presumption that sewage can be disposed through the installation of sewage collection, treatment, and disposal systems without undue water pollution:

- (a) Septic System Permit - Town of Pomfret (Pomfret Health Regulations);
- (b) Subdivision Permit - State of Vermont (Environmental Protection Regulations);
- (c) Land Use Permit - State of Vermont (Act 250);
- (d) Discharge Permit - State of Vermont (10 V.S.A., Chapter 47).

The Planning Commission may, however, on its own motion or upon the request of an interested party, question the Applicant, the Applicant's engineer, the issuing agency, or other witnesses concerning the permit or certificate of compliance and thereby challenge the presumption.

#### 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 15.9).



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 or Formal Hearing with the Clerk of the Planning Commission, the Commission shall promptly give notice for and conduct a Public Hearing in accordance with the rules of procedure as set forth in 24 V.S.A., Sections 4407 (2) and 4447.

#### 15.15 Criteria for Site Plan Approval.

15.15.1 In addition to the other provisions or standards as prescribed in this Ordinance, the Planning Commission shall, before granting Site Plan 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
- b) the proposed Land Development will meet any applicable health and water resources and environmental engineering department regulations of the Town and State and will not involve the injection of waste materials or any harmful or toxic substances into ground water or wells.
- c) 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 Site Plan 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;
- 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 immediate ridgeline as viewed from significant

viewpoints on Pomfret's public highways. 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 screen major buildings in open or prominent areas from significant viewpoints on Pomfret's public highways, 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
- f) Access Roads. Construction or improvement to access roads, to the extent possible, shall follow the contour of the land. Finished road grades shall not exceed fifteen (15%) except for runs not exceeding 250 feet in length. 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 Site Plan 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 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 Site Plan 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 Site Plan 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 Site Plan 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 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 Site Plan submitted to the Planning Commission or required to be planted or maintained by any Site Plan 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.

Superseded by Zoning Ordinance  
adopted May 2020