

Proposed Amendment to

Town of Plainfield

Zoning Regulations

**This draft was revised March 24, 2008 for consideration at the
Selectboard Hearing on April 14, 2008**

This proposed Interim Zoning Regulation was adopted by the Plainfield Selectboard at a duly warned meeting on April 14, 2008.

Keith E. Terry
Selectboard Chair

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Interim zoning regulations adopted 1970

Interim zoning regulations extended to 1972

Interim zoning regulations extended to 1974

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ARTICLE I: ENACTMENT, PURPOSE, AMENDMENTS AND DEFINITIONS

Section 1.1 Enactment

In accordance with the Vermont Planning and Development Act, hereinafter referred to as the “Act”, 24 V.S.A., Chapter 117, Subchapter 6, §4401 and §4481(c), there are hereby established Zoning Regulations for Plainfield, which are set forth in the text, maps, and appendices that constitute these regulations. These regulations shall be known as the “Town of Plainfield Zoning Ordinance.”

Section 1.2 Purpose

It is the intent of these Regulations to provide for orderly community growth, to implement the Plainfield Town Plan, to provide one zoning ordinance for the Town of Plainfield, and to further the purposes established in the Act, §4302.

Section 1.3 Application of Regulations

The application of these Regulations is subject to §§4411, 4412, 4407, and 4413 of the Act.

Except as hereinafter provided, no building or structure shall be erected, moved, or extended, and no land, building or structure or part thereof shall be occupied or used, unless in conformity with the Regulations herein specified for the district in which it is located. Any use not permitted by these Regulations shall be deemed prohibited.

Section 1.4 Interpretations

Except for §4413 (b) of the Act and where these Regulations specifically provide to the contrary, it is not intended to repeal, annul, or in any way to impair any permits previously granted that have not yet expired. However, where these Regulations impose a greater restriction upon use of a structure or land than are required by any other statute, ordinance, rule, regulations, permit, easement or agreement, the provisions of these Regulations shall control. Further, these Regulations shall supersede any prior Zoning Regulation for the Town of Plainfield.

Section 1.5 Amendments

These Regulations may be amended according to the requirements and procedures established in §4442 of the Act.

Section 1.6 Severability

A finding by any court or body of competent jurisdiction that any part of these Regulations is invalid shall not invalidate the remainder thereof.

Section 1.7 Definitions

Except where specifically defined herein, all words used in these Regulations shall carry their customary meaning. Words used in the present tense include the future, and the singular includes the plural; the word “shall” is mandatory; “occupied” or “used” shall be considered as though followed by “or intended, arranged or designed to be used or occupied”; “person” includes individual, partnership, association, corporation, company or organization. Condominiums, joint tenancy and tenancies in common shall be treated as single associations. Doubt as to the precise meaning of any word in these Regulations shall be clarified by the Board of Adjustment. Definitions contained in §4303 of the Development Act shall be applicable throughout these Regulations. Furthermore, unless otherwise expressly stated in these Regulations, the following additional terms shall, for the purposes of these Regulations, have the meaning herein indicated:

Accessory apartment – An efficiency or one-bedroom apartment that is clearly incidental and subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, has sufficient wastewater capacity, and does not exceed 30% of the total habitable

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floor space of the single-family dwelling or 400 square feet, whichever is greater.

Accessory use or structure – A building or use clearly incidental or subordinate in size and overall appearance (except for barns) to the main use or building, and customarily in connection with, the principal building or use on the same lot.

Affordable housing –either of the following:

(a) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.

(b) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.

Affordable housing development – A housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are affordable housing units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.

Agricultural use – The use of property or structures for common farming-related activities necessary for crop and animal production, including plant or tree nurseries.

Antenna tower (telecommunications) – see Article 6, Wireless Telecommunications Facilities.

Banner – Any sign of lightweight fabric or similar material for the purposes of advertising or promotional information. Banners will be considered as part of a business' total sign area. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Base flood –The flood having a one percent chance of being equaled or exceeded in any given year.

Bed and breakfast – an owner-occupied dwelling using no more than five (5) sleeping rooms for rent for transient occupancy in exchange for compensation, including the serving of breakfast to guests only. The sale of alcoholic beverages is prohibited.

Building front line – a line parallel to the street touching that part of a building closest to the street. This includes porches, whether enclosed or unenclosed, but does not include steps.

Change of use – Any change of use from one category of use to another, for example, residential to commercial, etc. or within a category of use (one retail use to another, one manufacturing use to another or from single family use to 2-family or multi-family use). A change of use shall also include any change of character of the business activity, for example, retail to wholesale.

Child care home – a facility that operates according to a license or registration from the state of Vermont to provide care in the owner's residence on a regular basis for six or fewer children under the age of sixteen full time for a period not to exceed 24 hours and up to four additional children for after-school hours, excluding the children of the owner. A child care home is a permitted use in all zones allowing dwelling units.

Child care facility – a facility which operates according to a license or registration from the state of Vermont in which care is provided on a regular basis for seven or more children under sixteen years of age, at one time, for periods not to exceed 24 hours. Such facilities include those commonly known as "day care center", "day nurseries", "play groups", and "pre-school". The issuance of a conditional use permit is required for a child care facility.

Commercial use – the use of a building or land or portions thereof for the purchase, sale or exchange of goods and commodities, services and amenities.

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Community facility – a building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or non-profit group or agency.

Cottage industry – Any use of a lot for gainful employment, operating on the same scale and intensity as a Home Occupation, meeting the provisions of Section 3.5 of this bylaw.

Dormitory – A building used as group living quarters by six or more students and/or staff as an accessory use for an academic institution, convent, monastery, or similar institutional use.

Dwelling unit – A room or set of rooms fitted with a private bath and kitchen facilities comprising an independent, self-contained residence occupied by a family and where rooms are not let to individuals.

Dwelling: one family – A detached building or structure which contains no more than one dwelling unit.

Dwelling: two family – A detached building or structure which contains no more than two dwelling units.

Dwelling: multiple unit – A building or portion thereof containing three or more dwelling units.

Essential service – Services and utilities needed for health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, steam, water, sewerage, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service for the area in which it is located.

Family – One or more persons living, sleeping, cooking, and eating on the same premises as a single housekeeping unit.

Floor area – The sum of the gross horizontal areas of several floors of the building or buildings on a lot measured from the exterior faces or exterior walls or from the centerline of party walls separating two buildings, excluding attic and basement areas used only for storage or the operation and maintenance of the building.

Height – The vertical distance measured from the average elevation of the finished grade around the building to the highest point of the ridge line or roof surface, excluding the chimney, or for a structure without a roof, to the highest point of the structure.

Home occupation – An accessory use of a residence meeting the provisions of Section 3.5 of this bylaw.

Land development – The division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

Light industry – Any manufacture, processing or fabrication of goods, wares or merchandise, having not more than 15 employees, occupying not more than 6,000 square feet of area including floor area and outdoor storage, and generating an average of not more than ten large truck trips per day. Such industry should be compatible with a rural residential environment and not cause any air, water or noise pollution.

Lodge – A building designed, in whole or in part, to room and/or board persons on a nightly, weekly or seasonal basis.

Lot – Land occupied or to be occupied by a building and its accessory buildings, together with the required open spaces, and having not less than the minimum area, frontage, width and depth required for a lot in the district in which such land is situated. Only one primary dwelling structure is allowed per lot, except in Planned Unit Development.

Lot frontage – The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the town or state highway OR the distance between the side lot lines of a lot created by or on an approved permanent easement or right-of-way access to a town or state highway. The required frontage for a lot shall be measured along a continuous line and shall not be interrupted, with the exception of a private drive, for the full length of the required distance.

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Lot line – Any boundary of a lot other than a street line.

Nonconforming lots or parcels – Lots or parcels that do not conform to the present bylaws covering dimensional requirements but were in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a lot or parcel improperly authorized as a result of error by the administrative officer.

Nonconforming structure – A structure or part of a structure that does not conform to the present bylaws but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a structure improperly authorized as a result of error by the administrative officer.

Nonconforming use – use of land that does not conform to the present bylaws but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present bylaws, including a use improperly authorized as a result of error by the administrative officer.

Nonconformity – A nonconforming use, structure, lot, or parcel.

Parking space – A temporary storage area for motor vehicles that a) has the minimum dimensions required in these regulations and b) is not located on a dedicated street right of way.

Planned unit development – One or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose any authorized combination of density or intensity transfers or increases, as well as the mixing of land uses. See Article 5, Planned Unit Developments.

Public water, public sewer – Sewage disposal and water supply systems approved by the water & wastewater commission.

Recreational use, commercial – Privately owned and operated use or buildings for sports or other leisure time activities, including, but not limited to, tennis court, skiing facility, skating rink, swimming pool, golf course, skating rink. This shall not include automobile or other motorized vehicle racing tracks, firing ranges and amusement parks.

Recreational use, public – Playground, playing field, park, open space, swimming pool or other recreational use or building operated by a governmental body or agency.

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

Religious institution – Any premises used and operated as a non-profit operation principally as a place of worship and religious education, but not including a school.

Setback – The distance between the nearest portion of any building on a lot and the street line of the lot.

Sign – Any structure, display, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any highway or other right-of-way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified, they shall include panels and frames.

Sign, portable – Any sign not permanently attached to the ground or other permanent structure. Portable signs, i.e. Sandwich boards, will be considered as part of a business' total sign area.

Sign, temporary – A sign, including its supporting structure, for the purposes of announcing or promoting a particular event, intended to be maintained for a period not to exceed 14 consecutive days. Temporary signs are meant to announce one-time events, e.g. a church supper, a play, auction, etc.

Stable – A commercial boarding and grooming facility for horses or other livestock which may include stalls for rent to the general public. A stable may also include riding facilities and trails.

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Street line – The line dividing the street, including right of way, and a lot. Where the width of the street is not established or cannot be determined, the street line shall be considered to be twenty-four (24) feet (i.e., one and one-half (1 1/2) rods) from the center of the existing traveled way.

Structure – An assembly of materials for occupancy or use, including a building, mobile home or trailer, sign, wall, or fence.

Subdivision – A division of any part, parcel, or area of land by the owner either by lots or metes and bounds into lots or parcels two or more in number for the purpose of conveyance, transfer, lease, improvement, platting or sale, or any re-subdivision of land.

Temporary dwelling – The use, under limited and specified conditions and for periods of not more than 12 consecutive months, of any structure as a dwelling.

Temporary structure – A structure designed for limited use with no foundation or footings, which is easily relocated and which remains in place for less than six months in any one-year period. Trailers that were intended for on-road usage, box vans, shipping containers and similar conveyances shall be considered structures if they are used for storage on a parcel for more than six (6) months. Structures in existence for more than six months shall be considered permanent and require a permit.

Wetlands – Those areas of the state that are inundated by surface or groundwater with a frequency sufficient to support vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.

Wireless telecommunication service – any commercial mobile service, wireless service, common carrier wireless exchange service, cellular service, personal communication service (pcs), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

Wireless telecommunication facility – any tower or other support structure, including antennae, that will extend 20 or more feet vertically, and any accompanying structure, building, access road, service utility or equipment that broadcasts or receives radio frequency waves carrying wireless telecommunication services.

Wireless telecommunication service provider – any person or entity providing wireless telecommunication services.

Yard – Space on a lot, not occupied with a building or structure, between the building and the property line. Porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required yard.

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ARTICLE II: ESTABLISHMENT OF ZONING DISTRICT, ADMINISTRATION & ENFORCEMENT

Section 2.1 Zoning Map

The location and boundaries of said districts are established as shown on the attached zoning map, the zoning map is hereby made a part of these regulations, together with all future notations, references and amendments.

Section 2.2 Interpretation of Zone Boundaries

If uncertainty exists to the boundary of any district shown on the zoning map, the Planning Commission shall determine the location of such boundary.

Section 2.3 Administrative Officer

The Administrative Officer is nominated by the Planning Commission and appointed by the Selectboard, as provided for in Section 4448 of the development act. Said officer shall literally enforce the provisions of these regulations, and in so doing, shall inspect land developments, maintain records of his/her actions, report periodically to the public and the governing body and perform all other necessary tasks to carry out the provisions of these regulations and the duties of his/her office. The administrative officer, in addition to his other duties, shall report annually in the town report on permits granted and denied.

Section 2.4 Issuance of Zoning Permit

Applicability

No land development as defined herein, including a change of use, shall be commenced in Plainfield until a zoning permit has been issued by the administrative officer, as provided for in §§4448–9 of the Act.

Exemptions

No zoning permit shall be required for the following activities:

1. Accepted agricultural practices, including the construction of farm structures, as defined in accordance with V.S.A. §4413(d). However, written notification, including a site plan map showing structure setback distances from roads, property lines and surface waters, shall be submitted to the Administrative Officer prior to any construction.
2. Normal maintenance and repair or modification of building interiors of an existing structure which do not result in exterior expansion or a change of use.
3. Residential entry stairs (excluding decks and porches and access to upper floors), handicap access ramps, and fences or walls no more than 4 feet in height which do not extend into or obstruct public rights of way or interfere with corner visibilities or sight distances for vehicular traffic.
4. Minor grading and excavation associated with road and driveway maintenance which is incidental to an approved use.
5. Temporary structures, as herein defined, which remain in place no longer than six months.
6. One freestanding and moveable structure, accessory to residential use on parcel, measuring no larger than 100 feet square and 15 feet in height per density unit (the minimum acreage required for a residence in a district), up to a maximum of three on a parcel shall not require a permit; however, no structure shall increase the external dimensions of another structure without a permit.
All structures, temporary or otherwise, must meet applicable setbacks.
7. Arbors, trellises, children's playsets
8. Garage sales, yard sales, auctions or similar activities on private land, or on town land with Selectboard authorization, that do not exceed three consecutive days, nor more than twelve days total in any calendar year.

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Issuance

1. A site plan map shall be submitted with each application for a zoning permit or site plan review. The map shall indicate the dimensions of the lot, location of all existing structures and development, including well, septic and driveway, on the lot, adjacent landowners, and the location of the lot within the community. The site plan map shall also include proposed development and structures for which the zoning permit is sought.
2. Within thirty (30) days of receipt of a complete application, including all application materials and fees, the Administrative Officer shall act to either issue or deny a zoning permit in writing, or to refer the application to the Zoning Board of Adjustment and/or state for consideration. In accordance with 24 V.S.A. §4448–9, if the Administrative Officer fails to act within the 30-day period, a permit shall be deemed issued on the 31st day.
3. No zoning permit shall be issued by the Administrative Officer for any use or structure which requires the approval of a municipal commission or the selectboard until such approval has been obtained. For permit applications that must be referred to a state agency for review, no zoning permit shall be issued until a response has been received from the state, or the expiration of 30 days following the submission of the application to the state.
4. The Administrative Officer, within three (3) days of the date of issuance, shall deliver a copy of the zoning permit to the listers, shall post a copy of the permit in the municipal offices and shall post a notice of permit on the property concerned within view of the nearest public right-of-way until the time for appeal has expired.

Effective date

No zoning permit shall take effect until the time for appeal under 24 V.S.A. §4465 has passed, or in the event that a notice of appeal is properly filed, until final adjudication of the appeal. A zoning permit shall become void if the work described therein has not been commenced within one year from the date of issuance, including those permits issued under interim zoning regulations. Work begun in accordance with a zoning permit must be completed within three years. If not completed within three years, the applicant must secure another zoning permit. The Administrative Officer may administratively renew a permit for a period not to exceed one additional year upon finding that there was reasonable cause for delay in the project.

Wastewater and water supply

In accordance with 24 V.S.A. §4414 (13), no construction under a zoning permit may begin until a wastewater and potable water supply permit is issued under 10 V.S.A. Chapter 64.

The Administrative Officer may enter the property with permission of the landowner to confirm that the development was done in compliance with the permit.

Section 2.5 Enforcement

In accordance with 24 V.S.A. §1974a(d) enforcement of municipal zoning violations may be brought as a civil ordinance violation or in an enforcement action pursuant to the requirements of §4451–4452.

Violations of Section 3.6 signs or violations involving a temporary use or event, a recreational vehicle or a moveable structure shall be enforced as a civil ordinance violation. A penalty of \$20 shall be imposed for the initial violation of any provision of this ordinance. The penalty for the second offense within a one-year period shall be \$50, and the penalty for each subsequent violation within a one year period shall be \$100. Each day that a violation continues will constitute a separate violation of this ordinance. If the foregoing enforcement strategy is not sufficient to deter violations, enforcement proceedings may also be initiated pursuant to 24 V.S.A. §4451 and/or §4452.

For all other violations of this ordinance, enforcement proceedings will be initiated pursuant to 24 V.S.A. §4451 and/or §4452, as they exist or are hereafter amended or revised, whereby a person shall be fined each offense an amount currently set at not more than one hundred dollars (\$100) for each offense. Each day that a

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violation is continued shall constitute a separate offense. No action may be brought under this Section unless the alleged offender has had at least seven days notice by certified mail that a violation exists. However, actions for subsequent violations may be brought without the seven-day notice as allowed by 24 V.S.A. 4451.

Section 2.6 Commercial Site Plan Review

Site plan review by the Planning Commission is required for all commercial development. No zoning permit shall be issued for any commercial development or building until approval by the Planning Commission has been obtained.

Standards for site plan review for commercial use:

- a) The scale/size of the development should be compatible with nearby properties and with the historic character of the village, if located in the village district.
- b) The use is appropriate in the district and will not be detrimental to the other uses within the district or to neighboring properties.
- c) The proposed use utilizes land efficiently. In the village district, mixed-use 2–3 story buildings are encouraged; for example, a store with office or apartment space on upper floor(s).
- d) Plans for safe traffic circulation and space for adequate parking, located at the side or rear of the building where possible.
- e) The use should create no odors/noise/lights beyond property line; to this end, landscaping and fencing may be required to screen the project. Plant material should be native to Vermont where possible and not on the agency of natural resources list of invasive or potentially invasive plants. Fencing should be of a natural material wherever possible in a color and style appropriate to both the proposed use on the parcel and to the surrounding properties. Outdoor lighting should be directed downward and should not illuminate adjacent properties or public roadways. Additionally, it should follow the guidelines in the *Outdoor Lighting Manual for Vermont Municipalities*.

Section 2.7 Board of Adjustment

There is hereby established a Board of Adjustment consisting of five members appointed by the selectboard for terms of five years. The terms of the members of the Board of Adjustment shall be staggered so that following appointment under this section, one member will be replaced after one year, one member will be replaced after two years, one member will be replaced after three years, one member will be replaced after four years, and one member will be replaced after five years, and all vacancies will recur every five years thereafter.

Rules of procedure, nature of appeals, public notice, conditions for variance relief and all other matters shall be provided in Subchapter 8 of the Act. The Board of Adjustment must also issue its own rules of procedure to govern matters brought before the board.

Section 2.8 Conditional Uses

No zoning permit shall be issued by the Administrative Officer for any use or structure which requires a conditional use permit in this regulation until the Board of Adjustment grants such approval. In considering its action, the Board of Adjustment shall make findings on general and specific standards, hold hearings and attach conditions as provided for in 24 V.S.A. §4413.

The general standards include assurance that the proposed use will not have an undue adverse effect on:

1. The capacity of existing or planned community facilities
2. The character of the area affected, as defined by the purpose or purposes of the district in which the proposed project is located and the specifically stated policies and standards of the municipal plan.
3. Traffic on roads and highways in the vicinity
4. Bylaws and ordinances then in effect
5. Utilization of renewable energy resources

Specific standards include the following:

1. The Board of Adjustment may require the installation, operation and maintenance of such devices and/or

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such methods of operation as may in the opinion of the board be reasonably required to prevent or reduce fumes, gas, dust, smoke, odor, noise, vibration, excessive light, or similar nuisance. Performance standards shall be as specified by the appropriate state regulatory agencies.

2. The board may impose such conditions regarding the extent of open spaces between the proposed use and surrounding properties as will tend to prevent injury which might result from the proposed use to surrounding properties and neighborhoods. The board shall not require more than double setback or double yards for the particular zoning district.
3. Landscaping and fencing may be required to maintain district character and to screen the use from view from a public way.
4. Off-street parking facilities may be required to accommodate the use, subject to a maximum of one car per person of maximum projected use.
5. Conformance with the Town Plan.

Section 2.9 Variances and Appeals

1. An interested person as defined in 24 V.S.A. §4465 may appeal any decision or act taken by the Administrative Officer by filing a notice of appeal with the secretary of the Zoning Board of Adjustment.
2. The Zoning Board of Adjustment shall set a date and place for a public hearing on an appeal which shall be within sixty (60) days of the filing of the notice of appeal in accordance with in 24 V.S.A. §4469.
- 3(a) On appeal for a variance for a structure that is not primarily a renewable energy resource structure, the Zoning Board of Adjustment shall grant such variance if all of the following facts are specifically found under the provisions of 24 V.S.A. §4468:
 - (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
 - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - (3) That unnecessary hardship has not been created by the appellant;
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
 - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.
- (b) On an appeal under 24 V.S.A. §4465 or §4471 in which a variance from the provisions of a bylaw or interim bylaw is requested for a structure that is primarily a renewable energy resource structure, the Zoning Board of Adjustment may grant that variance and render a decision in favor of the appellant if all the following facts are found, and the finding is specified in its decision:
 - (1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the bylaws.
 - (2) The hardship was not created by the appellant.(4-5) from 3(a) above.

Section 2.10 Coordination of Conditional Use & Site Plan Review

Where an application requires both site plan review and conditional use review, the Planning Commission shall conduct deliberations, act to approve or disapprove, and provide its written findings and conditions to the

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Zoning Board of Adjustment for its consideration of the application for conditional use approval pursuant to Section 2.8. The following should be considered with regard to respective review procedures and standards:

1. **Site plan review** typically requires that a project be consistent with the purpose and character of the district within which it is located. Standards and conditions emphasize those considerations related to internal layout of the site, its physical design and appearance as viewed from off-site, and the functional integration of the site with surrounding properties and uses.
2. **Conditional use review** typically requires compliance with standards addressing the impact of proposed land uses on adjacent properties, the neighborhood or district in which the project is located, and the community at large. Standards and conditions emphasize those considerations in which offsite impacts of a proposed project can be identified, avoided and/or mitigated.

Specific uses subject to both flood hazard review and conditional use review shall be reviewed concurrently in accordance with Section 2.8 and the Plainfield Flood Hazard Area Regulations by the Board of Adjustment.

Section 2.11 Administrative Review

Minor revisions to previously approved for site plan and subdivision reviews may be reviewed and approved by the zoning administrator without Planning Commission review. Minor revisions are those that have no substantial impact under any of the standards outlined in relevant sections of the regulations. Conditions from prior approvals shall only be modified if the original rationale for the condition(s) is understood and has been adequately addressed in a manner consistent with current town regulations. Furthermore, no revision issued via administrative review shall have the effect of substantively altering any of the findings of fact of the most recent approval.

1. Application & classification: submission requirements shall be the same as those outlined in the relevant section of the regulations. Classification as a minor or major revision (i.e., requiring Planning Commission review) is at the discretion of the zoning administrator.
2. Notice & posting: public notice and posting requirements shall occur after the permit is issued as specified for zoning permits in Section 2.12. In addition, written notice shall be sent to abutting landowners and the Planning Commission within 3 days of the issuance of the permit.
3. Decision: the zoning administrator shall act within 30 days of the receipt of a complete application, either by issuing a decision or by making a referral to the Zoning Board of Adjustment. The permit shall be deemed issued on the 31st day, if not acted upon. Revisions to a decision on a previously approved project shall be sent by certified mail to the applicant and landowner, and also to anyone else who makes a specific request. A permit shall not take effect until the time for appeal has passed.
4. Appeals: any interested person may appeal to the Zoning Board of Adjustment within 15 days of the date of the decision, in the same manner as other zoning permit appeals pursuant to 24 V.S.A. §4465.

Section 2.12 Hearing and Notice Requirements

1. The zoning administrator, within three days of approving a zoning application, shall post a notice of zoning permit approval at the property where the proposed development will take place at a location visible from the public right-of-way. This notice of zoning permit shall be posted until the appeal period is past.
2. Written notification of the hearing date and time to the applicant or appellant shall be provided by the Zoning Board of Adjustment for applications or appeals to the board or by the Planning Commission for matters requiring a hearing before the Planning Commission not less than 20 days prior to the date of the meeting scheduled for a hearing on the application or appeal.
3. A warned public hearing shall be required for conditional use review, variances, appeals from a decision of the zoning administrator, and final plat review for subdivisions. Any public notice for a warned public hearing shall be given not less than 15 days prior to the date of the public hearing by all the following:
 - (a) Publication of the date, place, and purpose of the hearing in a newspaper of general daily or weekly circulation in Plainfield.
 - (b) Posting of the same information in three or more public places within the municipality, including the municipal office.

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- (c) Posting within view from the public right-of-way most nearly adjacent to the property for which an application is made or which is the subject of an appeal of a sign containing the date, place, and purpose of the hearing. The applicant or appellant shall post the sign, which shall be obtained, from the zoning administrator or, for cases before the Zoning Board of Adjustment from the secretary or chair of the Zoning Board of Adjustment.
 - (d) Written notification by the applicant/appellant to owners of all properties adjoining the property subject to development or the subject of an appeal and to all owners of property within 50 feet of any boundary of the property subject to development or the subject of an appeal, without regard to any public right-of-way or any waterway. The notification shall state the date, place and purpose of the hearing and shall also include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
4. Public notice for hearings on all other types of development review, including site plan review, shall be given not less than seven days prior to the date of the public hearing, and shall include at a minimum all the following:
 - (a) Posting of the date, place, and purpose of the hearing in three or more public places within the municipality including the municipal office.
 - (b) Written notification by the applicant/appellant to owners of all properties adjoining the property subject to development or the subject of an appeal and to all owners of property within 50 feet of any boundary of the property subject to development or the subject of an appeal, without regard to any public right-of-way or any waterway. The notification shall state the date, place and purpose of the hearing and shall also include a description of the proposed project and shall be accompanied by information that clearly informs the recipient where additional information may be obtained, and that participation in the local proceeding is a prerequisite to the right to take any subsequent appeal.
 5. No later than seven (7) days prior to the scheduled hearing date, the applicant/appellant shall submit to the Zoning Board of Adjustment, for hearing before that board, and shall submit to the Planning Commission, for hearings before that commission, a list of the landowners to whom notice was provided and proof of notice to landowners, as specified in Section 2.12(3)(d) and in Section 2.12(4)(b), made either by certified mail, return receipt requested, or hand-delivered supported by a sworn certificate of service.
 6. The applicant/appellant shall bear the cost of the notice by publication which cost shall be included as part of the fee for the filing of an application or appeal to the Zoning Board of Adjustment or to the Planning Commission.
 7. In addition to the above requirements, the applicant/appellant shall comply with all provisions of 22 V.S.A. §4464(a).

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ARTICLE III. GENERAL REGULATIONS

Section 3.1 Miscellaneous Requirements

The provisions of these regulations shall be subject to such additions, modifications or exceptions as herein provided by the following general regulations.

Section 3.2 Nonconforming Uses, Structures, Lots & Parcels

The following provisions shall apply to all nonconformities as defined in Section 1.7 of these regulations:

1. Any nonconforming use of building or land or any noncomplying building existing at the time of the passage of the regulation first making such building or use a non-conforming use or non-complying structure may be continued indefinitely, but:
 - (a) Shall not be changed to another nonconforming use without approval of the Planning Commission, and then only to a use which, in the opinion of the commission, is of the same or a more restricted nature;
 - (b) Shall not be reestablished if such use has been discontinued for a period of twelve months or replaced by a conforming use;
 - (c) May be repaired or rebuilt if damaged by fire or accident provided that reconstruction is started within one year.
2. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.
3. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a noncomplying building which existed on the effective date of these regulations shall not be deemed the extension of a nonconforming use.
4. A noncomplying mobile home may be replaced by another mobile home provided that the degree of noncompliance is not increased.
5. A noncomplying building may be enlarged only to the extent that the degree of noncompliance is not increased.

Section 3.3 Existing Small Lots

Any lot in individual and separate and non-affiliated ownership from surrounding properties in existence on the effective date of said regulations may be developed for purposes permitted in the district in which it is located, even though not conforming to minimum lot size requirements, if such lot is not less than one-eighth acre in area with a minimum width or depth of forty feet.

Section 3.4 Required Frontage On or Access To Public Roads

No development may be permitted on lots, which do not either have frontage on a public road or public waters or, with the permission of the Planning Commission, access to such road or waters by permanent easement or right-of-way at least twenty feet in width, is accessible to emergency vehicles, does not negatively impact any waterway, wetland or adjacent residences, and does not traverse a slope greater than 15%. Any future public roads must have a right-of-way at least three rods in width.

Section 3.41 Non-conforming lots for Public Use

None of the provisions or restrictions set out in the zoning ordinance, including but not limited to setback requirement, frontage requirement or lot size, shall prevent the creation of a non-conforming lot of land for the purpose of conveyance to the Town for public use. This lot shall be subject to prior Selectboard approval and the review by the Planning Commission for conformance with the Town Plan. Any subsequent development or change of use shall require a conditional use permit. Donated parcels, conveyed to the town for public use, shall not count as a subdivision under Section 120 of the Plainfield Subdivision Regulations.

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Section 3.5.1 Home Occupations

In accordance with 24 V.S.A. §4406(3), no provision of this bylaw shall prevent a person from using a minor portion of the dwelling in which he or she resides for a Home Occupation which is customary in residential areas and which does not have an undue adverse effect on the character thereof. The following standards expand on the terms “minor” and “customary in residential areas” and shall apply to all Home Occupations, which require no town permit providing they comply with the following standards. Note that this does not release the owner from the responsibility of obtaining all applicable state/federal permits.

1. The principal operator of the business or activity shall be a full-time resident of the dwelling where the Home Occupation is conducted. There shall be no more than two employees of the business who are not occupants of the residence.
2. The Home Occupation must be conducted out of a legally established dwelling unit or accessory building and occupy an area that is less than 50% of the floor area of the dwelling. On-site activity related to the Home Occupation must be carried out principally within the enclosed walls of the dwelling unit or accessory building except for infrequent outdoor activity of short duration.
3. No traffic shall be generated in greater volume than would normally be expected in the neighborhood.
4. The Home Occupation shall not produce or result in levels of noise, vibration, smoke, dust, odors, electrical disturbances, heat, glare or risk of fire or other activity or condition beyond those usually present in residential neighborhoods, nor shall it generate objectionable levels of noise, smoke, vibration, dust, glare or odors detectable at the boundaries of the lot (or outside of the dwelling for a building with more than one dwelling).
5. Multiple Home Occupations in one dwelling shall be considered together as one Home Occupation.
6. The use is not a retail establishment; however, incidental sales are allowed.
7. Sufficient parking shall be provided outside of the town right-of-way for residents of the dwelling and any on-site employees, long-term contractors or clients.
8. No exterior storage of materials or equipment visible from the road or from any adjacent property shall be permitted, unless in conjunction with seasonal sales approved by the Board of Adjustment for a Cottage Industry.
9. There shall be no signage or outdoor display except one 1'x2' identifier sign with no advertising language.

3.5.2 Cottage Industry: Conditional Use Required in All Districts.

Any home occupation that does not comply with standards 1–9 under Home Occupations must obtain a conditional use permit for Cottage Industry from the Zoning Board of Adjustment:

1. Length of Validity of Permit

Any permit for a Cottage Industry is granted to the applicant for the length of time that the applicant occupies the dwelling or is running their business on the lot. Permit shall expire upon relocation by the applicant and shall not transfer to subsequent occupants or to a new location.

2. Standards

In addition to general standards for conditional uses (Section 2.8) , the Board of Adjustment shall make findings on the following specific standards for Cottage Industry:

- (a) The Cottage Industry does not occupy more than 3000 square feet of a legally established unit or accessory buildings to the unit.
- (b). The Cottage Industry shall be carried on only by no more than five employees.
- (c) Effects of sales will be incidental and non detrimental to character of neighborhood.
- (d) Limited outside display of products may be allowed subject to conditional use permit.
- (e) The Cottage Industry must be easily convertible to a barn or permitted use or be removable (a bond may be set by ZBA to guarantee removal).
- (f) The ZBA, as part of conditional use approval, shall establish hours of operation, which assure that the Cottage Industry does not disturb neighboring residences.

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3. Structures

A Cottage Industry may be located in a structure that looks like a structure common in the community and that fits in the neighborhood. The structure shall conform with the design of other structures in the neighborhood, and shall be designed for easy conversion to an allowed use in the district, if the Cottage Industry ceases to operate. However, if the Cottage Industry is located in a house or barn constructed prior to January 1, 2006, the entire house or barn may be used for the Cottage Industry, unless the Zoning Board of Adjustment, as part of conditional use review, restricts the Cottage Industry to a portion of the structure.

4. Building plans and drawings

The Zoning Board of Adjustment shall have the right to require building plans or architectural drawings (elevations) showing the design of the structure, to evaluate whether the structure has the required outward appearance. The ZBA may require other information as it deems necessary.

Section 3.6 Signs in All Districts

The purpose of the sign regulations is to regulate sign placement and control proliferation of non-essential signs in order to: improve pedestrian and traffic safety, protect the economic and scenic values of the town, minimize the possible adverse effect of signs on or nearby public and private property, and enable the fair and consistent enforcement of these sign restrictions.

A zoning permit shall be obtained prior to the erection of any sign except as set out below in sub-section 12 below regarding temporary signs. No signs shall be permitted in any district except as specifically permitted herein as follows:

1. Signs shall be on the same lot as the use advertised.
2. A "locator sign" not more than two square feet in size may be permitted in all districts with the issuance of a conditional use permit.
3. No permanent sign shall be attached to trees or utility poles, or painted on rocks or other natural features.
4. Wall-mounted signs shall not extend beyond the building facade or be mounted on a roof.
5. Only one free-standing sign shall be allowed per premises. Signage may appear on both sides of a free-standing sign.
6. In the forest and agricultural lands district and the rural residential district one sign is permitted. A free-standing sign shall not exceed six square feet in total size, nor shall it exceed six feet in height. A wall-mounted sign shall not exceed twelve square feet. A wall-mounted sign of not more than twenty square feet may be permitted with the issuance of a conditional use permit.
7. In all other districts the total square footage of all signs on a premises shall not exceed forty square feet unless a conditional use permit has been issued. A total square footage of up to eighty square feet may be permitted with the issuance of a conditional use permit.
 - A. One free-standing sign of not more than sixteen square feet is permitted. The maximum size of the freestanding sign may be increased up to forty square feet with the issuance of a conditional use permit.
 - B. Wall-mounted signs are permitted provided such signs do not exceed twenty-four square feet. A wall-mounted sign of not more than forty square feet may be permitted with the issuance of a conditional use permit. A wall-mounted sign composed of cut out letters shall be calculated at one-half of the area occupied by the letters.
 - C. The number of wall mounted signs permitted on each premises shall be determined by the number of traffic approaches to the premises and shall not exceed three in number.
8. Whenever dimensions of a sign are specified they shall include panels and perimeter frames, but not the supporting structure. The supporting structure shall not extend more than one foot beyond the top or sides of the sign.
9. An outdoor sign shall not be placed within twenty-five feet of the centerline of a highway or within fifty

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feet on a intersection of town highways unless affixed to a building and not extending beyond or above the same more than four feet. The placement of signs at distances closer to a highway right of way or intersection may be permitted with the issuance of a conditional use permit provided the placement of such sign does not obstruct the view of vehicular traffic in a manner which would be unsafe. Signs under jurisdiction of a government are exempt from this subsection.

10. Signs may be illuminated by a steady light, providing that annoyance to surrounding properties due to reflection or illumination will not occur.
11. Flashing, oscillating and revolving signs shall not be permitted, unless necessary for public safety or welfare.
12. The following temporary signs as defined in Article I, Section 1.7 above do not require a permit if constructed and installed according to the provisions of Section 3.6, Subsections 1–11 above:
 - (a) real estate signs
 - (b) construction site sign
 - (c) temporary signs displayed from the interior of a building
 - (d) political signs
 - (e) public announcement banners
 - (f) state and municipal signs
 - (g) portable signs, signboards
 - (e) public hearing notice signs

Section 3.7 Fences

In all districts, fences over four feet in height built within the setback area for the district shall require a conditional use permit. Fences and walls may not be constructed within the road right of way, except in the village district where they shall not create a safety or road/sidewalk maintenance hazard. Agricultural fences are not subject to these limitations to the extent exempted by state law or regulation.

Section 3.8 Outdoor Lighting

1. Outdoor lighting shall be limited to minimum levels necessary to ensure safety and security of persons and property.
2. Outdoor light sources shall emit white, color-balance light, shall be shielded, and shall not illuminate public roads or adjacent properties.

Section 3.9 Amateur Radio Towers

1. In any district, the erection of an amateur radio tower which exceeds thirty-five feet in height shall be permitted as a conditional use upon approval of the Board of Adjustment.
2. The maximum height limitations for the district in which the amateur radio tower is to be erected shall not apply if a conditional use permit is obtained by the amateur radio operator.
3. An amateur radio tower shall not be increased in height or changed in location without the application for and issuance of a conditional use permit.
4. In addition to all other provisions regarding conditional uses, the Board of Adjustment shall consider the location of the proposed amateur radio tower, the sight lines involved, the structure proposed and whether the amateur radio tower proposed presents a risk of falling on electric power lines, telephone lines, or buildings.
5. Such amateur radio tower shall not be converted to a commercial use without complying with Article VI of this ordinance, nor shall the owner of such amateur radio tower allow the use of the tower for commercial purposes.

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Section 3.10 Storage of Waste Materials

Commercial or public use dumping or storage of trash, waste, garbage, junk or automobile junk shall be permitted only as part of the normal operation of a sanitary landfill or junk yard, established or approved by the selectboard and approved by the appropriate state regulatory agency.

Section 3.11 Extraction of Natural Products

1. In any district, the removal for sale of soil, loam, sand gravel or quarried stone except when incidental to or in connection with landscaping or the construction of a building upon the premises by the owner shall be permitted only as a conditional use only upon approval of the Board of Adjustment. The Board of Adjustment may only give such approval after public hearing if it finds, in addition to all other provisions regarding conditional uses, that such removal will not cause physical damage to neighboring properties, will not cause erosion, sedimentation or water pollution and will not create an undue burden on town roads.
2. In accordance with §4407(8) of the Act, application for approval for the operation of sand and gravel excavations or sand removal is contingent upon approval of the Planning Commission with the advice of the soil conservation service, of the plan for the rehabilitation of the site at the conclusion of the operation and submission by the applicant of a bond to assure the rehabilitation.

Section 3.12 Subdivision Certification and Regulation of Large Subdivisions

1. For the purpose of this section, the term "subdivision" shall mean a division of any part, parcel, or area of land by the owner either by lots or metes and bounds into lots or parcels two or more in number for the purpose of conveyance, transfer, lease, improvement, platting or sale, or any re-subdivision of land.
2. A contiguous parcel of land in the Town of Plainfield may be subdivided into no more than four lots in any twelve month period unless done in conjunction with a Planned Unit Development approved by the Planning Commission in accordance with Article V of this regulation.
3. The town clerk of Plainfield shall not record any deed which evidences a subdivision of land unless the Administrative Officer certifies that such subdivision is in compliance with Town Zoning and Subdivision Regulations.

Section 3.13 Parking

1. **Residential uses:** one-family and two-family dwelling units; one parking space for every unit. Multiple-family dwelling units, one and one-half parking spaces for every unit. Professional residence/office, one parking space, plus one additional parking space for every three hundred square feet of office space.
2. **Hotel, motel, bed and breakfast:** one parking space for every rental room.
3. **Dormitory, fraternity, hospital:** one parking space for two beds.
4. **Places of public assembly:** every structure used as a theater, amusement facility, auditorium, community center, stadium, private assembly which provides facilities for seating of people; provided, however, one parking space shall be provided for every two hundred square feet of floor area.
5. **Business, professional and medical offices:** one parking space for every two hundred square feet of office space.
6. **Commercial, business, and unspecified uses:** one parking space for every motor vehicle used in the business, plus one parking space for every one hundred square feet of floor area.
7. **Restaurant, eating and drinking establishment:** one parking space for every one hundred and fifty square feet of floor area.
8. **Industrial, wholesale, warehouse, storage, freight and trucking uses:** one parking space for every motor vehicle used in the business, plus one parking space for every two employees.
9. **Outdoor recreation:** as required by the Planning Commission.

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The parking requirement may be waived by the Zoning Board of Adjustment for businesses in the commercial district.

Section 3.14 Construction Along Watercourses, Waterbodies, and Designated Scenic Roads,

Notwithstanding any other provision for setback specified in these regulations, no building shall be constructed within fifty feet of the street line of a road designated as a scenic road in the Plainfield Town Plan or within fifty feet of the shoreline of any stream, brook, river or pond. Placement of electric power or telephone lines or poles in these areas must be accomplished in a manner which will least detract from the scenic quality of the area.

Section 3.15 Historic Sites and Buildings Preservation

Notwithstanding any other provision for district uses specified in these regulations, application for the proposed use of any parcel of land which contains an historic site or building listed on the state and national registers of historic places will be required to have site plan approval by the Planning Commission prior to issuance of a permit. See Appendix 2, Historic District Map.

Prior to granting site plan approval, the Planning Commission shall find:

1. That the historic building and/or site is included in the site plan and will be restored, renovated or otherwise preserved in accordance with the provisions of 24 V.S.A. §4407; or
2. That the town, state or other public body has been granted first option to purchase said historic site or building and has refused to exercise said option within a six-month period.

Section 3.16 Certification of Required Land Areas

If doubt exists with respect to the area of land owned by an applicant who is required to comply with the provisions of these regulations, said area shall be certified by the board of listers of the Town of Plainfield. Disputes between the board of listers and the applicant regarding land area owned shall be settled at the applicant's expense by a professionally certified survey of the land area in dispute.

Section 3.17 Accessory Apartments

In accordance with 24 V.S.A. §4412(1)(E), no zoning regulation shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single family dwelling. These accessory units shall satisfy the following requirements:

1. The property has sufficient wastewater capacity.
2. Floor space shall not exceed 30 percent of the floor space of the existing living area of the single family residence or 400 square feet, whichever is greater; and
3. Applicable setbacks and parking requirements specified in the bylaws are met.

Section 3.18 Temporary Use or Structure

Temporary permits may be issued for certain non-conforming uses, described below, conditional upon written agreement by the owner to remove the structure and/or discontinue the use upon expiration of the permit:

1. Temporary permits may be issued as by the zoning administrator for temporary structures incidental to a construction project, including the use of such structures as housing for the intended residents of a new residence under construction.
2. The Zoning Board of Adjustment may issue conditional use permits in situations of medical necessity for temporary housing for not more than two persons, one of whom has a disability, illness or infirmity necessitating proximity to a dedicated caregiver. Such medical necessity permits will be renewed yearly by the zoning administrator as long as the conditions under which the permit was obtained still exist.
3. No permit will be issued for a temporary residential use that is not in compliance with state septic regulations

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Section 3.19 Recreational Vehicles

A person may park one recreational vehicle or other temporary shelter (e.g., tent, tipi, yurt), on a residential or undeveloped lot subject to the following provisions:

1. It complies with required setbacks for the district in which it is located; and
2. It is not occupied for dwelling purposes for more than 180 days within any one year period; and
3. It is not hooked up to a water system, septic system or other utilities, except in accordance with all state wastewater regulations; and
4. Written documentation shall be provided that any sewage generated by a camper or other temporary shelter shall be disposed of in accordance with all applicable local and state regulations.

Section 3.20 Building Height

The maximum height of structures in all districts shall be 35 feet.

The Zoning Board of Adjustment may permit as a conditional use television and radio towers, antennas, wind towers, belfries, church spires, water or fire towers, monuments, and chimneys at height of more than 35 feet. Agricultural barns and silos shall be exempt from this requirement.

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ARTICLE IV: ZONING DISTRICT REGULATIONS

Section 4.1 Reserve Lands District

In reserve lands district, the following uses are permitted:

1. Agricultural uses, except dwelling unit
2. Forestry uses under direction of the county forester
3. Public forests and parks
4. Wildlife refuge
5. Low intensity, non-commercial recreation uses including nature study, hunting, hiking, cross country skiing, snowmobiling, etc., but excluding any structure
6. Fire towers
7. All other uses are prohibited

General regulations: as set forth in Article III of these regulations.

Section 4.2 Forest and Agricultural Lands District

In forest and agricultural lands districts, the following uses are permitted:

1. Forestry uses
2. Agricultural uses
3. Accessory agricultural uses, including employee residence.
4. One-family dwelling
5. Public forests and parks
6. Low intensity, non-commercial recreation use including hunting, fishing, hiking, horseback riding, snowmobiling, cross country skiing, etc.
7. Accessory apartment

The following uses are permitted after issuance of a conditional use permit by the Board of Adjustment:

1. Two-family dwelling
2. Bed and breakfast
3. Community facility
4. Essential service
5. Planned unit development
6. Stable
7. Recreation, public
8. Cottage industry

Area, yard and general regulations:

Lot area minimum:	Five acres
Lot frontage minimum:	300 feet
Lot width minimum:	300 feet
Lot depth minimum:	300 feet
Building setback minimum:	50 feet
Side & rear yard minimum:	50 feet
Building height maximum:	35 feet (<i>agricultural uses exempt</i>)

General regulations: as set forth in Article III of these regulations. In addition, 1) no structure to be used for dwelling purposes and no subsurface sewage disposal system shall be constructed on slopes of fifteen percent or greater, or on poorly drained or shallow soils, and 2) adequate highway access is provided at no cost to the Town.

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Section 4.3 Rural Residential District

This district includes the former Residential District A and Intensive Residential District under the former Town Zoning Ordinance and the former Agricultural District under the former Village Zoning Ordinance.

In the rural residential district, the following uses are permitted:

1. Agricultural and forestry uses
2. One-family dwelling
3. Two-family dwelling
4. Accessory use
5. Accessory apartment
6. Public forests and parks

The following uses are permitted after issuance of a conditional use permit by the Board of Adjustment:

1. Lodge
2. Essential service
3. Light industry
4. Recreational use, commercial
5. Recreation use, public
6. Professional office
7. Fence over four feet high
8. Religious institution
9. Educational institution
10. Community facility
11. Planned unit development
12. Utility sub-station
13. Cemetery
14. Bed and breakfast
15. Cottage industry

Area, yard and general regulations:

Lot area minimum:	One-half acre with public sewer Two acres without public sewer
Lot frontage minimum:	50 feet for lots of one-half acre or less 150 feet for lots over one half acre
Lot width minimum:	50 feet for lots of one-half acre or less 150 feet for lots over one half acre
Lot depth minimum:	200 feet
Building setback minimum:	50 feet from highway centerline
Building height maximum:	35 feet (agricultural uses exempt)
Side and rear yard minimum:	20 feet for lots of one-half acre or less 50 feet for lots over one half acre 10 feet for accessory use

General regulations: as set forth in Article III of these regulations.

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Section 4.4 Village District

This district consists of the former Village Residential District, the Commercial District and Public Lands District prior to the 2004 Zoning Ordinance.

In the village district the following uses are permitted:

1. Agricultural and forestry uses
2. One-family dwelling
3. Two-family dwelling
4. Accessory uses
5. Public forests and parks
6. Business or professional office
7. Accessory apartment

The following uses are permitted after issuance of a conditional use permit by the Board of Adjustment:

- | | |
|---------------------------------|---|
| 1. Multi-family dwelling | 8. Retail or wholesale commercial service |
| 2. Lodge | 9. Bed and breakfast |
| 3. Dormitory | 10. Community facility |
| 4. Essential service | 11. Religious institution |
| 5. Light industry | 12. Educational institution |
| 6. Recreational use, commercial | 13. Planned unit development |
| 7. Recreational use, public | 14. Cottage industry |

Area, yard and general regulations:

Lot area minimum:	0.25 acre with public sewer Two acres without public sewer
Lot frontage minimum:	50 feet for lots of one-half acre or less 100 feet for lots over one-half acre
Lot width minimum:	50 feet for lots of one-half acre or less 100 feet for lots over one-half acre
Lot depth minimum:	100 feet
Building setback minimum:	28 feet from highway centerline
Side and rear yard minimum:	10 feet 10 feet for accessory use
Building height maximum:	35 feet

General regulations: as set forth in Article III of these regulations. Multiple uses within one structure will be permitted provided that all the uses are either permitted or conditional uses in this district.

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ARTICLE 5. PLANNED UNIT DEVELOPMENT

[the language that follows replaces the former section 4.5 planned residential development]

Section 5.1 Purpose

In accordance with the Act [§4417], Planned Unit Developments (PUDs) are allowed in all zoning districts except the reserve district. PUDs are intended to allow flexibility in site and lot layout that will promote the most appropriate use of land, and specifically achieve one or more of the following objectives:

1. Encourage compact, pedestrian-oriented development along with the economical provision of shared facilities and infrastructure to provide housing in a cost effective and energy efficient manner;
2. Implement the policies of the municipal plan, such as the provision of affordable housing
3. Cluster residential development to preserve and maintain open space, including but not limited to important agricultural lands, recreational resources and critical wildlife habitat;
4. Protect significant natural, cultural or scenic features as identified in the Plainfield Town Plan, or through site investigation; and
5. Allow for creative design and layout of development, an efficient use of land, and an integrated mix of compatible uses.

Section 5.2 Applicability

An applicant may apply for PUD approval from the Planning Commission, as allowed within designated zoning districts, in association with the proposed subdivision of two or more lots.

Section 5.3 Application Requirements

In addition to the application requirements for major subdivision approval under Section 220 of the Plainfield Subdivision Regulations, the accompanying application for PUD approval also shall include:

1. A statement setting any deviance from the zoning regulations, including, but not limited to requested increases in the allowed density of development and variances from district dimensional standards.
2. A description of the number and types of structures and uses to be included in the PUD, including elevations and exterior design specifications.
3. A site or subdivision plan showing lot lines, the location (building footprint) and spacing of buildings, common areas, landscaping, streets, driveways, parking areas, utilities, and any natural, scenic, agricultural, forestry, and/or other open space areas to be conserved.
4. Management plans for common areas, facilities and services, and conserved lands that identify their ownership, use and long-term maintenance or management, to include proposed legal agreements, covenants and/or easements.
5. Construction timeline indicating the number of dwellings to be developed in a given year.

Section 5.4 Review Process

Applications for PUD approval shall be reviewed by the Planning Commission concurrently with subdivision review, in accordance with the review process for major subdivisions set forth in the Plainfield Subdivision Regulations. In addition:

1. Any requested deviance from the zoning regulations may be approved simultaneously with the approval of a subdivision plan.
2. The Planning Commission may, as a condition of approval, establish conditions on the ownership, use and maintenance of any common areas, facilities or services, or open space areas as it deems necessary to ensure their long-term use, maintenance and/or management for their intended purpose.
3. The Planning Commission may require increased lot sizes or setback distances, and require landscaped or managed buffer areas as it deems necessary to protect natural and scenic features, community facilities and services, or neighboring properties from adverse impacts associated with the proposed development.

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4. The Planning Commission may also require the applicant to demonstrate fiscal capacity to complete the development as approved, through the provision of a bond or other surety acceptable to the Plainfield selectboard.
5. Approved modifications of the zoning regulations, and any other conditions of approval under these provisions, shall be specifically identified and noted or appended to the plat.
6. Approval granted by the Planning Commission under this section for a PUD containing one or more conditional uses shall not exempt the proposed development from subsequent review before the Zoning Board of Adjustment in accordance with Section 2.8. The Board of Adjustment shall incorporate any applicable conditions of subdivision and PUD site plan approval, including modifications to one or more provisions of these regulations, in conditional use review.
7. Any substantial change to a previously approved PUD shall require a public hearing and approval by the Planning Commission.

Section 5.5 General Standards

In addition to meeting standards for major subdivisions as listed in the Plainfield subdivision regulations, a proposed PUD shall:

1. Be consistent with the goals and policies of Plainfield Town Plan currently in effect, and the purpose of the zoning district(s) in which it is located;
2. Be designed to have buildings and uses clustered and, to the maximum extent feasible, to be compatible in siting, layout, scale, architecture, landscaping, and access with the rural character of the town and surrounding area as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan;
3. Not have an undue adverse impact upon the character of the district(s) in which it is located as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan;
4. Represent an effective and unified treatment of the development site, including provisions as appropriate for the preservation or protection of surface and ground waters; wetlands and floodplains; significant topographic features, including hilltops and ridgelines; areas of steep slope or shallow soil; significant resource lands, including agricultural and forest land; historic or archaeological sites and structures; natural and critical habitat areas; and open spaces, including scenic views and vistas;
5. Be planned to conserve, to the maximum extent feasible, the agricultural, forestry, recreational or scenic value of any agricultural lands, open spaces, prime woodlands, and ridgelines;
6. Be designed to give due consideration to streams and streambanks, steep slopes, wetlands, soils unsuitable for development, unique natural and manmade features, productive forest and agricultural soils, wildlife habitat, and floodplains;
7. Be designed to integrate vehicular and pedestrian circulation with neighboring properties and public rights-of-way, and not to create undue burdens on the traffic and roadway system of the Town;
8. Be energy efficient in site planning and layout, with consideration given to the effective utilization of renewable energy resources (wood, water, wind, solar), including access to solar energy through the design of active or passive systems that take advantage of southern orientation and are not hindered by shadows cast by adjacent structures; and the conservation of energy through landscaping and wind barriers, adequate insulation and weatherization, the installation of efficient heating systems, and other such measures;
9. Be landscaped, fenced or screened as necessary to maintain district character, to screen incompatible components of the development from the view of adjoining properties; and/or to minimize adverse impacts to scenic resources;
10. Give consideration to adequate fire protection, such as a water storage pond and emergency vehicle access, as recommended by the Plainfield fire department; and
11. Be served by adequate water supply and sewage disposal systems which are designed in conformance with current municipal and/or state regulations.

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Section 5.6 Specific Standards

Planned unit developments, in addition to meeting general standards under Section 5.5, shall also be subject to the following:

- (A) **Allowed Uses:** PUDs may include a mix of uses, including any permitted or conditional use allowed in the district in which it is located, and multi-family dwelling units if otherwise not allowed.
1. A PUD may involve the creation of separate building lots, or may include a development in which multiple buildings and uses are constructed on a single parcel to be held in common ownership.
 2. Principal buildings and mixed uses shall be compatible with each other, and buffered as appropriate to ensure visual and acoustical privacy for the residents of the development and for adjacent properties..
 3. The PUD plan shall include a sign plan for all signs to promote consistency in appearance.
- (B) **Density:** Except for projects which incorporate affordable housing the overall density of development shall not exceed the number of dwelling units, structures or uses which would otherwise be permitted, in the Planning Commission's judgment, if the land were subdivided in conformance with the zoning regulations, however:
1. A greater concentration of development may occur on one portion of the site provided there is an offset of lesser concentration on the remainder of the site, or the remainder is designated as conserved land.
 2. Where a district boundary line divides a parcel, the Planning Commission may allow the development of a single PUD with a total density based on the combined allowable density of each district.
 3. The commission may grant a density increase of up to 50% of the allowable number of units in any district in PUDs in which not less than 50% of the total number of dwelling units created are affordable housing units, as defined in Section 1.7.
 4. In granting any increase in the concentration or density of development, the Planning Commission shall consider the capacities of community services and facilities, and the character of the area affected as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- (C) **Open Space:** Land area not allocated to building envelopes and streets shall be permanently reserved as open space.
1. The minimum requirement for open space shall be 50% of the total acreage of the PUD, including the land where development is located. This area shall be in such a condition, size and shape as to be readily usable for agriculture, forestry, recreation or conservation. Such land must be reserved by one of the following means:
 - (a) Held in corporate ownership by the owners of the units within the development. However, membership in said corporation shall be mandatory for all residents of the development. In case of corporate ownership, the developer shall include in the deed to the owners of the dwelling units the membership stipulation and the beneficial right in the use of open land.
 - (b) By being donated to a non-profit land trust, with deed restrictions stipulated that will require the land to be permanently conserved as open space.
 - (c) By legal deed restrictions or easements or other means acceptable to the Planning Commission that provide for permanent conservation of the open spaces.
 2. To qualify as open space, land shall be usable for agriculture, forestry, recreation or conservation and may not be occupied by streets, drives, parking areas, or structures except for freestanding and moveable structures measuring no larger than 100 feet square and 15 feet in height or farm structures as defined in the Vermont Dept. of Agriculture's Agricultural Practice Rules (2.07).
 3. The PUD should be designed to allow significant portions of the land to be kept in tracts suitable for agriculture or forestry uses, if appropriate.
 4. It is the intent of these regulations that land not used for building sites be kept open and usable for agriculture, forestry, recreation or conservation.
 5. Provision for the preservation of open space should also be made within the village district. In this district, which is intended to accommodate compact development at higher densities than in more rural

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districts, open space should be integrated into compact development patterns and be designed as formal green spaces, such as “village greens,” pathways and trails, parkland and playgrounds, intended to serve the proposed development.

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ARTICLE VI: WIRELESS TELECOMMUNICATION FACILITIES

Section 6.1 Authority

Pursuant to 24 V.S.A. §4414(12), the Planning Commission and Zoning Board of Adjustment (ZBA), in accordance with procedures set forth in Section 2.10 for site plan review and conditional use review, shall have the authority to regulate construction, alteration, and development, decommissioning and dismantling of wireless telecommunication facilities in the Town of Plainfield.

Section 6.2 Purpose

The purpose of this bylaw is to promote the public health, safety, welfare, and convenience of the residents of the Town of Plainfield, while accommodating the telecommunication needs of the Town's residents.

Section 6.3 Consistency With Federal and State Law; Severability

This bylaw is intended to be consistent with the telecommunications act of 1996 and title 24, Chapter 117 of Vermont statutes annotated if any section of this bylaw is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this bylaw.

Section 6.4 Permit Required; Exemptions

Wireless telecommunication facilities may be permitted as conditional uses upon compliance with the provisions of this bylaw in all zoning districts except the reserve district.

No installation or construction of, or significant addition or modification to, any wireless telecommunication facility shall commence until a permit has been issued by the zoning administrator following site plan and conditional use approval. However, in accordance with 24 V.S.A. §4412(9), a permit shall be issued for a Wireless Telecommunication Facility that in the determination of the Planning Commission will impose no impact or merely a de minimis impact upon any criteria established in Section IX below. The Planning Commission determination regarding no impact or de minimis impact shall be in writing and shall be subject to appeal under 24 V.S.A. § 4471. No permit shall be required for a wireless telecommunication facility that is used exclusively for municipal radio dispatch service or emergency radio dispatch service and which does not exceed 50 feet in elevation.

This bylaw shall not apply to amateur radio, citizens band radio, am or fm radio, or broadcast television service.

No permit shall be required for a Wireless Telecommunication Facility that has received a certificate of public good pursuant to 30 V.S.A. § 248a.

This ordinance shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit, receive, or transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet, and if the antennae and the mast to which they are attached do not extend more than 12 feet above the roof of that portion of the building to which they are attached.

Section 6.5 Permit Application Requirements

In addition to information otherwise required in this bylaw, applicants shall include the following supplemental information:

1. The applicant's legal name, address and telephone number. If the applicant is not a natural person, the applicant shall provide the state in which it is incorporated and the name and address of its resident agent.
2. The name, title, address and telephone number of the person to whom correspondence concerning the application should be sent.
3. The name, address and telephone number of the owner or lessee of the property on which the wireless telecommunication facility will be located.
4. The names and addresses of all adjoining property owners. Adjoining property owners shall be determined without regard to any public right-of-way.

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5. A vicinity map showing the entire vicinity within a 1,000 foot radius of the facility, including the location of any tower, topography, public and private roads and driveways, buildings and structures, utilities, water bodies, wetlands, landscape features, historic sites and wildlife habitats. It shall indicate the property lines of the proposed facility site parcel and all easements or rights of way needed for access from a public way to the facility.
6. The location of the facility on a USGS topographic map or a GIS-generated map compatible with Vermont center for geographic information (VCGI) standards and encompassing the area within at least a two-mile radius of the proposed tower site.
7. Elevations and proposed site plans of the facility showing all facades and indicating all exterior materials and colors of towers, buildings and equipment, as well as all landscaping, utility wires, guy wires and screening. (all plans shall be drawn at a minimum scale of 1 inch = 50 feet).
8. In the case of a site that is forested, the approximate average elevation of the existing vegetation within 50 feet of any tower base.
9. Construction sequence and time schedule for completion of each phase of the entire project.
10. A report from a qualified engineer that:
 - (a) Describes any tower's design and elevation,
 - (b) Documents the elevation above grade for all proposed mounting positions for antennas to be collocated on a tower and the minimum distances between antennas,
 - (c) Describes a tower's capacity, including the number, elevation and types of antennas that the tower is proposed to accommodate.
 - (a) In the case of new facilities, demonstrates that existing towers and structures within 5 miles of the site cannot reasonably be modified to provide adequate coverage and adequate capacity to the community.
 - (e) Describes potential changes or additions to existing structures or towers that would enable them to provide adequate coverage.
 - (f) Describes the output frequency, number of channels and the power output per channel for each antenna. In the alternative, a coverage map may be provided.
 - (g) Demonstrates the facility's compliance with the standards set forth in this bylaw or other applicable standards.
 - (h). Provides proof that at the proposed facility site the applicant will be in compliance with all FCC regulations, standards and requirements, and includes a statement that the applicant commits to continue to maintain compliance with all FCC regulations, standards and requirements for radio frequency radiation (RFR).
 - (i) Includes such other information requested by the Planning Commission or ZBA to evaluate the application.
11. A letter of intent committing the facility owner and its successors to permit shared use of any tower if the additional users agree to meet reasonable terms and conditions for shared use, including compliance with all applicable FCC regulations, standards and requirements and the provisions of this bylaw and all other applicable laws.
12. In the case of an application for additional antennas or other equipment to be installed on an existing facility, a copy of the executed contract with the owner of the existing structure.
13. To the extent required by the National Environmental Policy Act (NEPA) and as administered by the FCC, a complete Environmental Assessment (EA) draft or final report describing the probable impacts of the facility, or a written statement by the applicant that an EA is not required is not required for the facility.

Section 6.6 Independent Consultants

Upon submission of an application for a wireless telecommunication facility permit, the Planning Commission or ZBA, or both bodies together may retain independent consultants whose services shall be paid for by the applicant. These consultants shall be qualified professionals in telecommunications engineering, structural

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engineering, monitoring of electromagnetic fields and such other fields. The consultant(s) shall work at the Planning Commission or ZBA's direction and shall provide them such reports and assistance, as they deem necessary to review an application.

Section 6.7 Balloon Test

The Planning Commission or ZBA may require the applicant to fly a four-foot diameter brightly colored balloon at the location and maximum elevation of any proposed tower or to use the best appropriate technology. If a balloon test is required, the applicant shall advertise the date, time, and location of this balloon test at 7 days in advance of the test in a newspaper with a general circulation in the Town. The applicant shall also inform the Planning Commission and ZBA, in writing, of the date, time and location of the test, at least 15 days in advance of the test.

The balloon shall be flown for at least eight consecutive daylight hours on two days. If visibility and weather conditions are inadequate for observers to be able to clearly see the balloon test, further tests may be required.

Section 6.8 Criteria for Approval and Conditions

An application for a wireless telecommunication facility permit shall be approved after site plan review and conditional use review conducted in accordance with Section 2.10 when all the following criteria have been met:

1. The facility will not be built on speculation. If the applicant is not a wireless telecommunication service provider, the applicant may be required to provide a copy of a contract or letter of intent showing that a wireless telecommunication service provider is legally obligated to locate a wireless telecommunication facility on lands owned or leased by the applicant.
2. The facility will not project more than 20 feet above the average elevation of the tree line measured within 50 feet of the highest vertical element of the wireless telecommunication facility, unless the proposed elevation is reasonably necessary to provide adequate wireless telecommunication service capacity or coverage or to facilitate collocation of facilities.
3. The minimum distance from the base of any tower to any property line is not less than 100% the total elevation of the tower, including antenna or equipment.
4. The facility will not be illuminated by artificial means and will not display any lights or signs except for such lights and signs as required by Federal Aviation Administration, federal or state law, or this bylaw.
5. The applicant will remove the facility, should the facility be abandoned or cease to operate. The Planning Commission or ZBA may require the applicant to provide a bond, or other form of financial guarantee acceptable to the Plainfield selectboard to cover the cost of removal of the facility, should the facility be abandoned or cease to operate.
6. The applicant demonstrates that the facility will be in compliance with all FCC standards and requirements regarding radio frequency radiation.
7. The applicant will maintain adequate insurance on the facility.
8. The facility will be properly identified with appropriate warnings indicating the presence of radio frequency radiation. A permit may be conditioned on the provision of appropriate fencing.
9. The proposed equipment cannot be reasonably collocated at an existing wireless telecommunication facility. In determining whether the proposed equipment cannot be reasonably collocated at an existing facility, the following factors shall be considered:
 - (a) The proposed equipment would exceed the structural or spatial capacity of the existing facility and the existing facility cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
 - (b) The proposed equipment would materially impact the usefulness of other equipment at the existing facility and such impact cannot be mitigated or prevented at a reasonable cost.
 - (c) The proposed equipment, alone or together with existing equipment, would create radio frequency interference and/or radio frequency radiation in violation of federal standards.

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- (d) Existing towers and structures cannot accommodate the proposed equipment at an elevation necessary to function reasonably or are too far from the area of needed coverage to function adequately.
 - (e) Collocation of the equipment upon an existing tower would cause an undue aesthetic impact.
10. The facility provides reasonable opportunity for collocation of other equipment.
 11. The facility will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
 12. The facility will not have an undue adverse aesthetic impact. In determining whether a facility has an undue adverse aesthetic impact, the Planning Commission or ZBA shall consider the following factors:
 - (a) The results of the balloon test, if conducted.
 - (b) The extent to which the proposed towers and equipment have been designed to blend into the surrounding environment through the use of screening, camouflage, architectural design, and/or imitation of natural features.
 - (c) The extent to which access roads have been designed to follow the contour of the land and will be constructed within forest or forest fringe areas and not open fields.
 - (d) The duration and frequency with which the facility will be viewed on a public highway or from public property.
 - (e) The degree to which the facility will be screened by existing vegetation, topography, or existing structures.
 - (f) Background features in the line of sight to the facility that obscure or make the facility more conspicuous.
 - (g) The distance of the facility from the point of view and the proportion of the facility that is above the skyline.
 - (h) The sensitivity or unique value of a particular view affected by the facility.
 - (i) Any significant disruption of a viewshed that provides context to an important historic or scenic resource.
 13. The facility will not destroy or significantly imperil necessary wildlife habitat or that all reasonable means of minimizing the destruction or imperilment of such habitat or species will be utilized.
 14. The facility will not generate undue noise.

Section 6.10 Continuing Obligations for Wireless Telecommunication Facilities

The owner of a wireless telecommunication facility shall, at such times as requested by the Zoning Board of Adjustment, file a certificate showing that it is in compliance with all FCC standards and requirements regarding radio frequency radiation, and that adequate insurance has been obtained for the facility. Failure to file a certificate within the timeframe requested shall mean that the facility has been abandoned.

Section 6.11 Removal of Abandoned or Unused Facilities

Unless otherwise approved by the Zoning Board of Adjustment an abandoned or unused wireless telecommunication facility shall be removed within 90 days of abandonment or cessation of use. If the facility is not removed within 90 days of abandonment or cessation of use, the Town of Plainfield may cause the facility to be removed. The costs of removal shall be assessed against the facility owner.

Unused portions of a wireless telecommunication facility shall be removed within 180 days of the time that such portion is no longer used. Replacement of portions of a facility previously removed shall require a new permit, pursuant to Section V.