

Appendix 24-A

Local Laws and Ordinances

White Creek Solar
Towns of Leicester and York
Livingston County, New York

Matter No. 23-00059



Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Leicester, NY

FILED
STATE RECORDS

NOV 04 2019

Local Law No. 5 of the year 2019

DEPARTMENT OF STATE

A local law "Solar Energy Systems"
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Leicester, NY as follows:

See next page

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2019 of the (County)(City)(Town)(Village) of Leicester, NY was duly passed by the Town Board (Name of Legislative Body) on September 17 2019, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

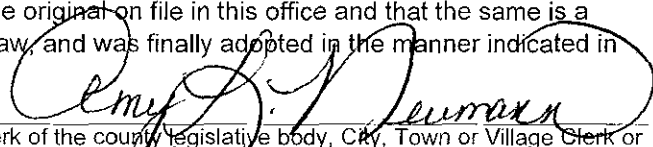
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: September 26, 2019

(Seal)

**TOWN OF LEICESTER
LOCAL LAW NO. 5 OF THE YEAR 2019**

A Local Law Entitled “Adding Solar Energy Systems Section to the Zoning Ordinance of the Town of Leicester.”

Be it enacted by the Town Board of the Town of Leicester as follows:

A new section 8. A. shall be added to the Zoning Ordinance of the Town of Leicester and shall be entitled “Solar Energy Systems” and shall read as follows;

Section 8. A. Solar Energy Systems.

A. Authority and Legislative Intent.

The Town Board of the Town of Leicester states the following as its findings and legislative intent:

1. This Local Law establishing regulations for Solar Energy Systems (as hereafter defined) is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of Leicester to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
2. The Town Board of the Town of Leicester recognizes that solar energy is a clean, readily available and renewable energy source and the Town of Leicester intends to thoroughly accommodate the use of Solar Energy Systems.
3. However, the Town Board finds it is necessary to properly site and regulate Solar Energy Systems within the boundaries of the Town of Leicester to protect residential uses, Prime Farmland (as hereafter defined) and farm operations, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Leicester, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Leicester.
4. Prior to the adoption of this Local Law, no specific procedures existed to address the regulation and siting of Solar Energy Systems. Accordingly, the Town Board finds that the promulgation of this Section is necessary to direct the location, size and construction of these systems.

5. In addition, the Town Board believes it to be necessary to regulate and govern the proper and timely removal of Solar Energy Systems upon such systems becoming non-functional or when they are no longer being utilized.

B. Definitions.

The following definitions shall apply to this Section:

Applicant - The person or entity submitting an application and seeking an approval under this Section; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Section, said term shall include any person acting as an applicant, owner or operator.

Building-Integrated Solar Energy System - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a Building.

Glare – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

Ground-Mounted Solar Energy System - Any Solar Energy System that is affixed to the ground either directly or by support structures or other mounting devices where such structure and mounting exists solely to support the Solar Energy System.

Prime Farmland - Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to

water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmland within the Town of Leicester is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of Leicester – Prime Farmland Soils Showing an Area of Environmental Importance."

Roof-Mounted Solar Energy System - A Solar Energy System mounted on the roof of any legally permitted Building or structure and wholly contained within the limits of the roof surface.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy Equipment - Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.

Solar Energy System - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Type 1 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a Building, single-family Dwelling, Multiple Dwelling, business or farm. Said system shall be considered an Accessory Use (as defined in Section 4.), designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.

Type 2 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

C. Zoning districts where allowed. Subject to the provisions of this Section, Solar Energy Systems shall be allowed as follows:

1. Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
2. Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
3. Roof-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:

- (a) The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.
 - (b) Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions within the zoning district in which they are located.
 - (c) Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design standards:
 - (i) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
 - (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (iv) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way
 - (d) Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the local zoning code or other land use regulations, excepting the requirement to obtain a building permit as required in paragraph C. 3. above
4. Type 1 Solar Energy Systems are allowed as Accessory Uses and/or structures in all zoning districts.
- (a) The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.
 - (b) Height. Type 1 Solar Energy Systems shall not exceed fifteen (15) feet at the highest point when oriented at maximum tilt.

- (c) Setbacks. Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Buildings within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - (d) Coverage. Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for accessory Buildings or structures within the zoning district in which it is located and in no event shall the combination of all accessory Buildings and structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum tilt.
 - (e) All Type 1 Solar Energy Systems located in Residential Districts (R) shall be installed in the side or rear yard.
 - (f) All applications for Type 1 Solar Energy Systems for businesses or farms, to the extent permitted by law, shall be subject to Site Plan review as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.
 - (g) Pursuant to 6 NYCRR 617.5, Type I Solar Energy Systems to be used on residential parcels shall be deemed to be Type II Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.
5. Type 2 Solar Energy Systems are permitted only in Agricultural Districts (A) and are subject to the requirements set forth in this Section, including Site Plan review as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town, and are allowed only after the issuance of a Special Use Permit pursuant to these provisions. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Leicester Planning Board (for Site Plan) and the Town of Leicester Board of Appeals (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial.
- (a) Area where Type 2 Solar Energy Systems are not permissible. Notwithstanding the above, Type 2 Solar Energy Systems shall not be a permitted use within that portion of the Agricultural District (A) that is from the east side of the Genesee Valley Greenway to the Town boundary that runs along and south of the Genesee River as such area has been

determined to be an area of environmental importance and of a unique character to the community due to its proximity to the Genesee River and being a part of the Genesee Valley. Said area is shown on "Exhibit 1," which is styled "Town of Leicester – Prime Farmland Soils Showing an Area of Environmental Importance."

- (b) Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit the Site Plan application provided to the Planning Board, any information required by the Code Enforcement Officer and the following documents and information:
 - (i) If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
 - (ii) Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
 - (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
 - (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.
 - (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
 - (vi) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Leicester Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
 - (vii) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Leicester Planning

Board, Town of Leicester Board of Appeals, Town Attorney or Code Enforcement Officer.

- (viii) At its sole discretion, the Town of Leicester Planning Board and/or the Town of Leicester Zoning Board of Appeals may refer an application for a Type 2 Solar Energy System to one or more private consultants for review to assist such Board in properly fulfilling its duties. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town (through either Board) for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, either Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval, either Board may require that additional monies be deposited with the Town before further review of the application will continue. A reviewing Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.

- (ix) Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the improvements are placed. The Decommissioning Plan shall run to the benefit of the Town of Leicester and be executed by the Applicant as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. Such plan shall, prior to commencement of construction, be recorded at the office of the

Livingston County Clerk as irrevocable deed restrictions indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that all future owners of such properties will be obligated to comply with the Decommissioning Plan requirements if the Applicant or then owner of the Solar Energy System fails to do so.

The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- A. Prior to obtaining a building permit and as a condition to any Special Use Permit being issued, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Leicester at its discretion) for the removal of the Type 2 Solar Energy System, with the Town of Leicester as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Solar Energy System has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Leicester with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.
- (x) If a Type 2 Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Agricultural Mitigation for Solar Energy Projects.

- (c) Special Use Permit and Site Plan Approval Standards.
- (i) Height. Type 2 Solar Energy Systems shall adhere to the height requirements of the underlying zoning district.
 - (ii) Setbacks. Type 2 Solar Energy Systems shall be sited to create a front setback of no less than 200 feet from public roadways and setbacks of 100 feet from all side and rear property lines. In addition, no Type 2 Solar Energy System shall be located closer than 300 feet from any residential structure located on another parcel.
 - (iii) Lot/Parcel Size. Type 2 Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.
 - (iv) Lot/Parcel Coverage. Type 2 Solar Energy Systems are permitted to cover up to 80% of any lot or parcel that does not contain Prime Farmland. If a Type 2 Solar Energy System is to be constructed on a parcel or parcels that contain Prime Farmland, in no instance shall more than 10% of the Prime Farmland on any given lot be permitted to be used, developed or covered for purposes of Type 2 Solar Energy Systems. It is the intent of this restriction to protect the valuable resource and benefits of Prime Farmland and it is the express intention of the Town of Leicester that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems on Prime Farmland by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt.
 - (v) Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts. The Planning Board shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residentially zoned areas or abut a public road.
 - (vi) Number of Type 2 Solar Energy Systems allowed per lot. Only one Type 2 Solar Energy System shall be allowed per lot or parcel, regardless of lot size.

- (vii) Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of Leicester within the five (5) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent any owner of land from combining multiple parcels of land in order to permit siting of a larger Type 2 Solar Energy Systems than would have been otherwise allowable pursuant to these regulations.
- (viii) Vegetation and Habitat. Type 2 Solar Energy System owners/developers shall develop, implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native plant species and seed mixes.
- (ix) Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel.
- (x) After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (xi) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (xii) Any application under this Section shall meet any substantive Site Plan requirements as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town, or that in the judgment of the Leicester Town Planning Board, are applicable to the system being proposed.

- (xiii) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Solar Energy System.
- (xiv) Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Solar Energy System shall be deemed to be a Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act (6 NYCRR 617.4 (a) (1) and (2) specifically allow the Town to classify such actions in addition to the list established by such statute) with The Leicester Planning Board and the Leicester Zoning Board of Appeals conducting a coordinated review.
- (xv) The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Leicester or other federal or state regulatory agencies. The Leicester Town Planning Board and the Leicester Zoning Board of Appeals may impose conditions on its approval of any Site Plan or Special Use Permit under this Section to enforce the standards referred to in this Section or to discharge its obligations under the State Environmental Quality Review Act.
- (xvi) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining a Building Permit as provided for above, or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (xvii) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.

(xviii) Inspections. Upon reasonable notice, the Town of Leicester Code Enforcement Officer, or his or her designee, may enter a lot or parcel upon which a Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Section or any approval given or permit issued pursuant to this Section. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Leicester at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder, owner or operator and shall be reimbursed to the Town of Leicester within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of Leicester reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

- D. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Leicester shall be permitted only as follows:
1. Any inconsistent provisions of the Code of the Town of Leicester which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
 2. All Solar Energy Systems existing on the effective date of this Section shall be "grandfathered" and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Section.
 3. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
 4. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this Section shall be subject to the provisions of this Section.

5. This Section shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Zoning Ordinance of the Town of Leicester.
6. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information.
7. For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface.
8. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
9. Payment in Lieu of Tax Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - (a) In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.
 - (b) In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.
 - (c) The payment in lieu of tax agreement shall run to the benefit of the Town of Leicester and be executed by the Applicant/developer as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Livingston County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar

Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of Leicester to enforce such agreement as against the owner of the real property and the real property.

- (d) At its sole discretion, the Leicester Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.
- (e) No building permit may be issued for any approved Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.

10. Community Benefit Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a community benefit agreement with the Town for payment by the owners, developers or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Type 2 Solar Energy System.

- (a) At its sole discretion, the Leicester Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required community benefit agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required community benefit agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the community benefit agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the community benefit agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants.
 - (b) No building permit may be issued for any approved Type 2 Solar Energy System until such time as a community benefit agreement has been executed by all parties.
- 11. Road Use Agreement. Prior to issuance of any building permit for a Type 2 Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Type 2 Solar Energy System. As a part of such Road Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Leicester at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.
 - (a) In the event that any damage is done to any Town road as a result of the development of an Applicant's Type 2 Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such

road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.

- (b) Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Highway Superintendent, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
- (c) The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
- (d) No building permit may be issued for any approved Type 2 Solar Energy System until such time as a Road Use Agreement has been executed by all parties.

E. Abandonment and Decommissioning.

- 1. If the use of an approved Solar Energy System is discontinued, the permit holder, owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
- 2. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail, return receipt requested. Any appeal by the permit holder, owner or operator of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Leicester Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the permit holder, owner or operator and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent

jurisdiction grants a stay or reverses said determination. At the earlier of 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.

3. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Leicester Zoning Board of Appeals or the Town Planning Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the responsibility of the permit holder, system owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the permit holder, system owner or owner of the property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the permit holder or system owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.
 - (a) Removal of all Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Plan required by section C. 5. (b) (ix) above. In the event that permit holder, the then owner of the Type 2 Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

F. Revocation.

If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Leicester Zoning Board of Appeals holds a hearing on same as provided for herein.

G. Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Section shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Section is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Section are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

H. Severability.

If any section, subsection, phrase, sentence or other portion of this Section is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

ARTICLE I: GENERAL PROVISIONS

SECTION 101 – TITLE.

The Article shall constitute and be known as the “Zoning Code of the Town of Leicester” (hereafter referred to as “Code”). The Code shall include this text, all schedules and attachments referred to herein and the official Zoning Map. Any fee schedule referenced herein shall be adopted by the Leicester Town Board, may be amended from time to time and shall be available for Public inspection at the Town Clerk’s office.

SECTION 102 – PURPOSE AND INTENT.

The objective of this Code is to promote public health, safety and welfare and to provide for the orderly physical development and growth of agricultural, residential, commercial, and industrial uses of land, consistent with the economic and social needs of the community and with any land development policies adopted by the Town and consistent with the objectives of New York State’s Town Law Section 264.

SECTION 103 – CONFLICT WITH OTHER LAWS.

Whenever the requirements of this Code are at variance with the requirements of any lawfully adopted rules, regulations, laws, or ordinances, the most restrictive of those imposing the higher standards shall govern.

SECTION 104 – APPLICABILITY AND SEVERABILITY.

- A. Except as herein provided, no Building or land in the Town of Leicester, outside the corporate limits of the Village of Leicester shall be used or occupied nor shall any Building or part thereof be erected, moved or altered unless in conformity with the regulations of this Code. Existing Buildings, Structures and uses which do not comply with the regulations of this chapter shall be allowed to continue, subject to the provisions of Article VII of this Code relating to nonconformities.
- B. Should any section of, or provision of this Code, be determined by a court of competent jurisdiction to be unconstitutional or invalid, such determination shall not affect the validity of this Code as a whole or any part thereof other than that part so determined to be unconstitutional or invalid. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Code to a particular property, Building or Structure, such judgment shall not affect the application of said provision to any other property, Building or Structure.

SECTION 105 – INTERPRETATION.

In interpreting, construing and applying the provisions of this Code, such provisions shall be held to be the minimum requirements for the protection of the public safety, convenience, prosperity, and general welfare of the public. It is not intended that this Code shall conflict, abrogate, or annul (except as specifically herein provided) any other ordinance, local law, rule or regulation of the Town of Leicester previously adopted or which may hereafter be adopted and not in conflict with this Code; nor is it intended that this Code will interfere with or abrogate or annul any easements, covenants, or other agreements between parties. Whenever this Code imposes a greater restriction upon the use of Buildings, Structures or premises or upon the height of Buildings or Structures or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations, or permits, or by such easements, covenants, or agreements, the provision of this Code shall control.

SECTION 106 – REPEAL OF PRIOR ZONING LAW OR ORDINANCE.

All prior zoning ordinances and/or Code provisions of the Town of Leicester regulating or restricting Buildings, the use of lands, and setbacks are hereby repealed and rescinded.

SECTION 107 – AMENDMENTS.

The regulations, restrictions, Uses and boundaries provided in this Code and the Zoning Map may be amended, supplemented, changed, modified or repealed in accordance with the provisions of Sections 264 and 265 of Article 16 of New York State’s Town Law and all other laws of the State of New York applicable thereto, and in accordance with the following procedures:

A. The Town Board may, in accordance with the provisions of Town Law, on its own motion or upon petition of any property owner, or on recommendation from the Planning Board or the Zoning Board of Appeals, amend, supplement, change or repeal any or all of the regulations and provisions of this Code. The Town Board may amend this Code to ensure that the development of the area being reclassified will be in accordance with an existing or future development plan or Comprehensive Master Plan adopted by the Town Board.

B. PETITION FOR ZONING CHANGE OR AMENDMENT.

1. Whenever any person, firm, or corporation desires that any amendments or changes be made to this Code, including the text and/or Zoning Map, as to any property in the Town, there shall be presented to the Town Board a petition requesting such change or amendment. The petition must be signed and acknowledged by the person presenting it in the same manner as required for

the recording of a deed to real property and shall be filed by the petitioner with the Town Clerk, in triplicate. The petition shall clearly describe the property or properties proposed for re-zoning and their boundaries and shall indicate the existing zoning district(s) classification and the requested zoning district(s) classification. The petition shall also identify existing highways, municipal boundary lines, State parks and State or County institutions, if such exist, within five hundred (500) feet of the proposed area of the requested zoning change. A petition requesting a change in district boundaries or use classification must be signed by the owners of not less than fifty (50) percent of the area for which the petition is presented. The petition shall also list the names and addresses of all property owners bordering the proposed zoning change. A filing fee, pursuant to regulations adopted by the Town Board, shall be paid at the time of filing of the petition.

2. All future amendments to this Code shall comply with the requirements of Sections 264 and 265 of the New York State Town Law.

C. PUBLIC HEARING REQUIRED.

1. No amendment shall become effective until after a public hearing, at which parties in interest and citizens shall have an opportunity to be heard.
2. As required by NYS Town Law Section 264, notice of the place and time of such hearing shall be published in a paper of general circulation in the Town of Leicester at least ten days prior to the hearing.

D. NOTIFICATION TO NEIGHBORING MUNICIPALITY.

1. If the proposed zoning change affects property within five hundred (500) feet of the boundaries of any City, Village, Town, County, State Parkway or Park, pursuant to Town Law Section 264, a written notice shall be sent to the Clerk of such City, Village, Town, County, or regional State Park commission at least ten days prior to the date of the public hearing.
2. Such City, Village, Town, County, or regional Park Commission shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment, but shall not have the right of review by a court as herein after provided.

- E. REFERRAL TO COUNTY PLANNING BOARD. When any zoning change, amendment to the Code or amendment to the Zoning Map affects property within five hundred (500) feet of a municipal boundary, refer to Section 512 of this Code.

SECTION 108 – EFFECTIVE DATE.

This Code shall take effect immediately after the same shall have been published and posted, as provided for by the Laws of the State of New York.

SECTION 109 – ENFORCEMENT & PENALTIES FOR OFFENSES.

- A. ENFORCEMENT. It shall be the duty of the Code Enforcement Officer or any duly authorized assistants to enforce the provisions of this Code or any determination of the Zoning Board of Appeals or the Planning Board.
- B. PENALTIES FOR OFFENSES. The violation of any provision of this Code is an offense and shall subject the person violating the same to a fine not exceeding Two Hundred Fifty dollars (\$250.00) or to imprisonment not exceeding fifteen (15) days, or both.
- C. CONTINUED VIOLATION. Each week’s continued violation shall be considered a separate and distinct offense.
- D. CIVIL PENALTIES. In addition to those penalties prescribed by state law or elsewhere in this Code, any person who violates any provision of this Code any other section of the Leicester Town Code, shall be liable to a civil penalty of not more than Two Hundred Fifty dollars (\$250.00) for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town.
- E. OTHER RELIEF. Nothing contained in this Section shall preclude the municipality or its agents from seeking such other relief as may be lawful in order to compel adherence to the terms of this chapter and otherwise enforce the same.

ARTICLE II: DEFINITIONS

SECTION 201 – DEFINITIONS.

ACCESSORY STRUCTURE/BUILDING – A subordinate Structure or Building not attached to the Principal Building and located on the same Lot as the Principal Building, occupied by or devoted to an Accessory Use.

ACCESSORY USE – A Use that is naturally and normally incidental and subordinate to the main or principal use of the premises, whether located in a Principal or Accessory Building or

Structure on the same Lot therewith. In no case shall such Accessory Use dominate, in area, extent or purpose, the principal lawful Use or Building.

ADULT ENTERTAINMENT – refer to the Town of Leicester Adult Entertainment Law.

AGRIBUSINESS – Any business which is designed to directly support or engage in the production operations of an Agricultural or Farming Operation, the manufacture or distribution of farm equipment and supplies, or the processing, storage, and distribution of farm commodities. Agribusinesses may include: farm markets, agritourism, and direct marketing businesses associated with Agriculture.

AGRICULTURE – The use of land for Agricultural purposes including tilling of the soil, dairying, pasture, Agriculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary Accessory Uses for packing and storing products, provided that the operation of any such uses shall be secondary to that of normal Agriculture activities, and provided that such Uses shall not include the commercial feeding of garbage and offal to swine or other animals.

AGRICULTURAL OR FARM BUILDING – Any Building used for the housing of farm workers, agricultural equipment, products, Livestock or poultry, or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with and necessary to Agricultural/Farming operations as defined in this Article. The term “Farm Building” shall not include a primary residence.

AGRICULTURAL /FARMING OPERATION – The use of a parcel of land of five acres or more for gain in the raising of agricultural products, trees, nursery stock, Livestock, poultry or dairy products. It includes necessary farm buildings and storage of necessary equipment. It also includes the use of a parcel of land less than five acres except that on such parcels, the raising of fur-bearing animals, livery or boarding stables, dog Kennels and the raising of Livestock or poultry for personal use or sale and/or slaughter is excluded and therefore prohibited.

ALTERATIONS – As applied to a Building or Structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL – Any change in the supporting members of a Building or Structure, such as bearing walls, columns, beams, or girders other than the modification and repair of building equipment systems such as heating, cooling and electrical.

ALTERNATIVE ENERGY SYSTEMS – Structures, equipment, devices, or construction techniques used for the production of heat, light, cooling or other forms of energy on site and may be attached to or separate from the principal Structure. Examples include wind machines, Solar Energy Systems, geo-thermal systems, and solar water heaters.

ANIMAL HOSPITAL/VETERINARIAN – A business which provides animal care, medicine, and surgery on the premises, and which houses animals overnight and/or for extended periods of treatment.

APPEAL – A request for a review of the Code Enforcement Officer's (or other administrative official's) interpretation of any provision of this Code.

BAR/TAVERN – A business establishment with a New York State Liquor License authorizing sale of liquor for on-premises consumption in which liquor sales represent 25% or more of sales receipts.

BASEMENT – That portion of a Building that is partly or completely below grade plane.

BED AND BREAKFAST/TOURIST HOME – An Owner-occupied Dwelling in which overnight accommodations (six or fewer bedrooms) are provided for transient guests for compensation but where such use is secondary to the Owner occupancy.

BUFFER – A designated area whose purpose is to provide a barrier to minimize the impact of potential intrusive Uses, such as, but not limited to; noise and lights. The screening used in a Buffer area may be in the form of Fences, vegetation, or a combination of appropriate methods.

BUILDING – Any Structure having a roof supported by columns or walls intended for commerce, shelter, housing, or enclosure of persons, animals, or material.

BUILDING, AREA – The aggregate square footage of the areas of all enclosed and roofed spaces of the Principal Building and all Accessory Buildings. Such areas shall be computed by using outside building dimensions measured on a horizontal plane at ground level.

BUILDING, FRONT LINE OF – The line of that face of the Building nearest the street line, or if there are street lines on two or more sides of the Building, it is the line of that face of the Building frontage on that street line where the principal entrance is located. This face includes covered porches whether enclosed or unenclosed, but does not include steps.

BUILDING, HEIGHT – The vertical distance measured from the average elevation of the proposed finished grade at the front of the Building to the highest point of the roof for flat roofs, to the Deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gable roofs.

BUILDING, PRINCIPAL – A Building in which is conducted the main Use of the parcel on which said Building is located.

BUILDING, TEMPORARY – Any Building or Structure erected, constructed, or placed upon the parcel intended for temporary occupancy or Use in connection with the construction or operation of a Permitted Use and to exist on the parcel for a brief or temporary duration of time,

not exceeding 6 months. All other Buildings or Structures shall be deemed and considered as permanent for the purposes of this Code.

CAMPGROUND – A parcel of land used or intended to be used by two or more tents, travel trailers or other recreational vehicles on a transitory or seasonal basis and conducted as a business or as part of a public Use or private club.

CAMPING TRAILER - Any vehicle used or arranged for temporary living or sleeping purposes, mounted on wheels, which may be registered and drawn by a motor vehicle.

CARPORT – A roofed Structure that can be freestanding or attached to a Structure and used for the storage of one or more vehicles.

CLUB – Any organization catering to members and their guests, or premises and Buildings for recreational or athletic purposes and not open to the general public, which are not conducted primarily for gain, providing there are not any vending stands, merchandising, or commercial activities except as required for the membership and purposes of such Club. For the purpose of this Code, Club shall include lodges, fraternal organizations, mutual benefit societies, and other like organizations.

COMMUNICATION CENTER, CALL CENTER – A facility that provides data processing and data collection and/or document management.

COMMUNITY CENTER – Any meeting hall or place of assembly not operated primarily for profit.

COMMUNITY RESIDENCE - A supervised community home operated in compliance with the New York State Mental Hygiene Law which houses not more than fourteen (14) individuals and provides client supervision on a 24-hour basis. For the purposes of this Code an approved Community Residence as defined herein is considered a Single-Family Dwelling.

COMPREHENSIVE PLAN – The materials, written and or graphics, including but not limited to maps, charts, studies, resolutions, reports and other descriptive materials that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Town of Leicester.

CONVALESCENT HOME, HOSPICE, NURSING HOME OR EXTENDED CARE FACILITY – See Hospital.

DARK SKY COMPLIANT – The prohibition of light from installed lighting fixtures from illuminating the darkness of a night sky.

DAY CARE – A facility as defined by Article 390 of the Social Service Law of the State of New York.

DAY CARE CENTER – A place other than an occupied residence providing or designed to provide day care for seven or more persons on a regularly scheduled basis for more than three but less than 24 hours a day.

DAY CARE, CHILD – Shall mean care for a child on a regular basis provided away from the child's residence for less than 24 hours per day by someone other than the parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or stepparents of such child.

Child day care does not refer to care provided in:

- (1) A summer day camp, traveling summer day camp, or children's overnight camp as defined in the State Sanitary Code;
- (2) A program for school-age children operated solely for the purpose of religious education, sports, classes, lessons, or recreation;
- (3) A facility providing day care services or treatment under an operating certificate issued by the Office for People with Developmental Disabilities (OPWDD); or
- (4) A kindergarten, pre-kindergarten, or nursery school for children three years of age or older, or a program for school-age children conducted during non-school hours, operated by a public school district or by a private school or academy which is providing elementary or secondary education in accordance with the compulsory education requirements of the Education Law, provided that such kindergarten, pre-kindergarten, nursery school or program is located on the premises or campus where the elementary or secondary education is provided.

DAY CARE, HOME - Shall mean a Single-Family Dwelling which is occupied as a personal residence which provides child care on a regular basis for more than three hours per day per child for three to six children for compensation or otherwise except as provided below. The name, description or form of the entity which operates a Home Day Care does not affect its status as a Home Day Care. For the purpose of this Code, a Home Day Care shall be considered an Accessory Use to a Single-Family Dwelling Unit.

DECK – An exterior floor system constructed with approved building material, with a walking surface at any perimeter location of at least eight inches above the grade below, supported on at

least two opposing sides by an adjoining Structure and/or posts, piers or other independent supports.

DEVELOPMENT – Any man made change to improved or unimproved real estate, including, but not limited to, Buildings or other Structures, utilities, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DISPOSAL TRANSFER STATION – A solid waste management facility, other than a recyclables handling and recovery facility exclusively handling non-putrescible recyclables, that can have a combination of Structures, machinery, or devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility.

DRIVE-IN FACILITY – A Use or portion of a Use which by design of physical facilities or by service or packaging procedures encourages or permits customers to receive a service or obtain a product which may be consumed or used in a motor vehicle on the premises.

DWELLING – Any Building that contains one or more Dwelling Units used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or that are occupied for living purposes, including a Manufactured Home.

SINGLE-FAMILY: A detached residential Dwelling designed for and occupied by one family only.

TWO-FAMILY: A detached residential Building containing two separate Dwelling Units, designed for occupancy by not more than two families.

MULTIPLE FAMILY: A residential Building designed for or occupied by three or more families with the number of families in the residence not exceeding the number of Dwelling Units provided.

SEASONAL HOME: A Dwelling Unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including hunting cabins, vacation cottages and vacation lodges.

DWELLING UNIT – One or more rooms connected together constituting a separate, independent housekeeping establishment and containing independent cooking and sleeping facilities, designed for occupancy by one family, either for Owner occupancy or lease on a weekly, monthly, or longer basis, and physically separated from any other Dwelling Units which may be in the same Structure.

DWELLING USE, ACCESSORY – An Accessory Use involving a separate and complete Dwelling Unit either in or added to an existing Single-Family Dwelling, or a separate Accessory Building on the same Lot as the Principal Building.

EQUESTRIAN FACILITY – A place used for horsemanship which may include but is not limited to horse stabling, horseback riding, horse training, horse riding lessons and competition events.

FAMILY - One or more persons who live together in a Single-Family Dwelling Unit and maintain a common household. The family may consist of a single person or two or more persons, whether or not related by blood, marriage or adoption.

FARM LABOR CAMP – Housing facilities, Building or Buildings in which people are housed who are employed by an Agricultural or Farming Operation.

FENCE – Any Structure built with approved building materials attached to the ground for the purposes of, including but not limited to the following: identifying property lines, containing Livestock or pets, or to establish a barrier to prevent entry into any space. Decorative landscaping items are not included.

GROSS FLOOR AREA – For the limited purposes of applying the requirements for off-street parking and loading, “Gross Floor Area” in the case of offices, merchandising, or service types of Uses, shall mean the total floor area to be Used or intended to be used by Tenants, or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display, sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms, general maintenance or enclosed pedestrian malls or corridors.

FUNERAL HOME - An establishment in which the dead are prepared for burial or cremation and in which wakes and funerals may be held.

GARAGE – Attached or detached Building used in conjunction with a primary Building which provides storage.

GAS STATION/CONVENIENCE STORE – A retail establishment which offers for sale beverages and sundries, including the dispensing of motor fuels.

HABITABLE SPACE – The space within a Building which is used for living, sleeping, eating or cooking, or to be used for a Home Occupation. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered Habitable Spaces.

HISTORIC STRUCTURE – Any Structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the New York State inventory of historic places which has been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - A. By an approved state program as determined by the Secretary of the Interior; or
 - B. Directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION – Any occupation, profession or business which is carried on wholly within a Dwelling, is clearly incidental and secondary to the Use of such Dwelling for residential purposes and is carried on only by members of the family residing on the premises.

HOSPITAL – Hospital, sanitarium, clinic, Hospice, rest home, Nursing, Convalescent Home, home for the aged, and any place for diagnosis and treatment of human ailments, with the exception of a doctor’s office.

HOTEL – A Building or Buildings containing rooms intended, designed, or used, rented, or hired out, to be occupied for sleeping purposes by transient guests and/or the general public.

IMPERVIOUS SURFACE – The horizontal area of ground covered by a surface through which water cannot infiltrate, such as, Buildings, asphalt or concrete driveways and parking areas.

JUNK AND REFUSE – Refer to Town of Leicester Junk/Scrap Yard and Junk Storage Law.

KENNEL- A Lot or parcel of land where four (4) or more adult dogs are kept whether by Owners of the dogs or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog is one of either sex, altered or unaltered, that has reached the age of four (4) months.

LANDSCAPED AREA – The area of a Site Plan which does not consist of any Structures or pavement. Landscaped area shall consist of those areas on a Site Plan that are planted, seeded or provide similar vegetative or landscaped cover, including ponds.

LAUNDRY, SELF SERVE – A business establishment that provides clothes washers and dryers for hire to be used by customers on the premises.

LIGHT TRESPASS – The encroachment of light from an installed light fixture upon any adjoining properties.

LIVESTOCK – Any domestic animal kept, including but not limited to cattle, horses, donkeys, mules, burros, sheep, hogs, goats, or poultry greater than three months of age; provided, however that this definition shall not apply to dogs and cats, nor shall it apply to sheep, cattle or horses allowed to pasture on open range land where the individual pastures exceed ten (10) acres in area.

LOT – A parcel of land considered as a separate unit, devoted to a certain Use or occupied by a Building or group of Buildings that are united by a common interest or Use and the customary Accessory Use and open spaces belonging to the same. A Lot, within the meaning of this Code, may or may not be a lot as shown on a subdivision plot or the assessment records or maps.

LOT AREA – An area of land which is determined by the limits of the Lot Lines bounding that area and expressed in terms of square feet or acres. Any portion of a Lot included in a public street or Road Right-Of-Way shall not be included in calculating Lot Area.

LOT COVERAGE - The percentage of the Lot Area covered by Buildings or Structures excluding parking areas, driveways and walkways.

LOT DEPTH – The mean horizontal distance between the Front and Rear Lot Lines.

LOT LINES - The property lines bounding the Lot. In the case of a Lot abutting more than one street or Road, any such Lot Line bounding a street or a Road will be considered a “Front Lot Line”.

LOT LINE-REAR –The Lot Line which is generally opposite the Front Lot Line.

LOT LINE-SIDE – The property line or lines extending from the Front Lot Line to the Rear Lot Line.

LOT- WIDTH – The mean width measured at right angles to the Front Lot Line or, for wedge-shaped Lots, flag-shaped Lots or Lots with side boundary lines not perpendicular to the Front Lot Line, the width measured at the required minimum front setback.

MANUFACTURING – Any commercial process whereby the nature, size, or shape of articles or raw materials is changed or where articles are assembled or packaged.

MANUFACTURED HOME/DOUBLE WIDE - A Manufactured Home consisting of two or more sections, combined at the site, with a width of no less than 20 feet, and built on a permanent chassis while still retaining their individual chassis for possible future movement and complying with Part 1220 of the New York State Uniform Fire Prevention and Building Code and Federal Department of Housing and Urban Development standard. The term “Manufactured Home” shall not include however any self-propelled recreational vehicles, including but not

limited to; travel trailers, motorized homes, pickup coaches and camping trailers. This definition does not include Modular Homes as defined by the New York State Uniform Fire Prevention and Building Code.

MANUFACTURED HOME PARK – A parcel of land which is planned and improved for the long term placement of two or more Manufactured Homes and for which Use said premises are offered to the public or to any person for a fee.

MOBILE HOME – The same meaning as a “Single-Wide” Manufactured Home, a structure 14 feet or less in width and transportable in one section.

MODULAR HOME – A factory-manufactured Dwelling Unit which incorporates Structures or components designed for residential occupancy, constructed by a method or system of construction whereby the Structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a foundation at a Building site. Such home shall be constructed and installed in accordance with the requirements of Sub Chapter B of the New York State Fire Prevention and Building Code and shall bear an insignia of approval issued by the New York State Fire Prevention and Building Code Council. Factory-Manufactured Homes shall be deemed to be Single, Two-Family or Multiple Family Dwellings.

MOTEL –A Building or group of Buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing accessory off-street parking and if desired, restaurant facilities. The term “Motel” shall also include tourist courts, motor lodges and similar Uses.

MOTOR VEHICLE REPAIR – Engine repair, body work, frame straightening, painting, upholstering, steam cleaning, electrical work, tune-ups and all other vehicle repair services not specifically listed in the definition or motor vehicle service stations.

MOTOR VEHICLE, INOPERABLE – A vehicle that cannot be driven upon the public streets for reasons including but not limited to being unlicensed, un-inspected, wrecked, abandoned, in a state of disrepair, or incapable of moving under its own power.

MOTOR VEHICLE SALES AREA – Any Building, land area or other premises used for the display or sale of new or used automobiles, motorcycles, trucks, trailers or boats, but not including any repair work other than warranty and other repair service conducted as an Accessory Use on such premises.

MOTOR VEHICLE SERVICE STATION – Any Building, land area or other premises, or portion thereof, used or intended to be used for any one or a combination of the following activities:

- (1) Retail dispensing or sales of motor vehicle fuels;

- (2) Retail dispensing or sales of motor vehicle lubricants, including oil changing and chassis lubrication where substantial dis-assembly is not required;
- (3) Retail dispensing or sales or motor vehicle coolants;
- (4) Hand or machine washing in a single bay motor vehicle wash; or
- (5) Incidental repair or replacement of parts, such as windshield wiper blades, light bulbs, air filters, oil filters, batteries, belts, tires, fuses, lubrication of vehicles, and the like.

MOTOR VEHICLE WASH – Any Building or premises, or portion thereof, the use of which is devoted to the business of washing motor vehicles for a fee, whether by automated cleaning devices or otherwise.

NON-CONFORMING BUILDING – A Building, which in its design or location upon a Lot, does not conform to the regulations of this Code for the zoning district in which it is located.

NON-CONFORMING LOT – Any Lot of record lawfully existing at the date of adoption of this Code or any amendment thereto which does not have the minimum width or contain the minimum area, or is otherwise not in compliance with the zoning district in which it is located.

NON-CONFORMING USE – Any Use of any Building, Structure or land lawfully existing at the date of adoption of this Code or any amendment thereto which does not conform to the Use regulations of the zoning district in which it is situated.

OPEN SPACE/USABLE OPEN SPACE – An area or areas of a Lot, including required yards, which are:

- (1) Open and unobstructed from ground to sky, except by facilities specifically designed, arranged and intended for use in conjunction with passive or active outdoor recreation or relaxation.
- (2) Landscaped, maintained or otherwise treated to create a setting appropriate to recreation or relaxation.
- (3) Accessible and usable by the general public, business patrons or residents of all Dwellings or stores it is intended or required to serve.

OWNER – An individual, firm, association, syndicate, partnership, corporation or other form of business entity having sufficient proprietary interest to seek development of land.

PARKING SPACE – An off-street space available for the parking of one motor vehicle on a transient basis and having a width of at least ten (10) feet, and an area of not less than two

hundred (200) square feet, exclusive of passageways and driveways, and having direct usable access to a street or Road.

PLANNING BOARD – The officially established Planning Board of the Town of Leicester.

PRINCIPAL USE - The main or primary Use to which a Lot, Building or Structure is or is intended to be used.

PROFESSIONAL OFFICES – Offices such as, but not limited to, attorneys, accountants, architects, engineers, doctors, dentists, other medical specialists, psychiatrists, psychologists, therapists, chiropractors, insurance, travel or real estate agents and offices of not-for-profit organizations.

PUBLIC USES – Any one or more of the following Uses, including grounds and Accessory Buildings or Structures necessary for their Use:

- (1) Places of worship, cemeteries, parish houses and convents;
- (2) Public parks, playgrounds and recreational areas when authorized or operated by governmental authority;
- (3) Nursery schools, elementary schools, high schools, colleges or universities having curriculum approved by the Board of Regents of the State of New York;
- (4) Public libraries and museums; or
- (5) Not-for-profit fire, ambulance and public safety buildings.

PUBLIC UTILITY – Any facility or related equipment, including but not limited to all lines, pipes, transformers, poles, electrical or gas substations, pumping stations and similar facilities, telephone dial equipment centers, water treatment or storage facilities, etc., performing an essential public service and subject to special governmental regulation. Nonessential components of public utility operations, such as general storage and maintenance facilities, are excluded from this definition.

RECREATION, INDOOR – Includes, but is not limited to, bowling alley, theater, table tennis, pool hall, skating rink, gymnasium, Swimming Pool, hobby workshop, arcade and similar places of Indoor Recreation.

RECREATION, OUTDOOR - Includes, but is not limited to, golf courses, golf driving range, trap, skeet, and archery range, Swimming Pool, skating rink, riding stable, tennis court, recreation stadium, hunting preserve, and similar places of Outdoor Recreation.

RECREATION VEHICLE – A vehicle that is:

- (1) Built on a single chassis;

- (2) Designed to be self-propelled or permanently towable by a light duty truck; and is
- (3) Not designed for use as a permanent Dwelling but as temporary living quarters for recreational, camping, travel, or seasonal Use.

RECYCLABLES HANDLING AND RECOVERY FACILITY – A solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream or at which previously separated recyclables are collected.

RELIGIOUS INSTITUTION - Church, temple, parish house, house of worship, convent, seminary or retreat house.

RESEARCH AND DEVELOPMENT FACILITIES –A facility which conducts scientific experiments, research or technical studies.

RESTAURANT – Any establishment, however designed, at which food is sold for consumption on site to patrons seated within an enclosed Building or elsewhere on the premises. A snack bar or refreshment stand at a public, semipublic or community Swimming Pool, playground, playfield or park, or an approved vendor operating the recreational facilities for the convenience of the patrons of the facility shall not be deemed to be a Restaurant.

RETAIL STORE – The sale of food, including food preparation for retail sale on the premises, retail sales of shoes, clothing, home furnishings, appliances, computers and electronic equipment, hardware, tools, paint and wallpaper, sport/hobby equipment, books, luggage, cards and gifts, jewelry, liquor, drugs, fabrics and flowers and similar items.

RIGHT-OF-WAY – A strip of land, either public or private, occupied or intended to be occupied by a street, sidewalk, trail, railroad, electrical transmission line, fiber optics cable, oil or gas pipeline, water main, sanitary or storm sewer or other similar use.

ROAD – A highway or street that facilitates traffic movement within the Town.

ROADSIDE STAND/SEASONAL FARM STAND – A permanent or temporary Structure for the sale of Agricultural products produced on the premises.

SCHOOL – Parochial, private and public school, college, university and Accessory Uses operated under the Education Law of the State of New York and recognized by the appropriate educational authorities; and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishment.

SETBACK, MINIMUM FRONT – The least required horizontal distance between the Front Lot Line and all Buildings or Structures measured at the shortest point.

SETBACK, MINIMUM REAR - The least required horizontal distance between the Rear Lot Line and all Buildings or Structures measured at the closest point.

SETBACK, MINIMUM SIDE – The least required horizontal distance between the Side Lot Line and all Buildings or Structures measured at the closest point.

SIGN – refer to Article VII

SITE PLAN- A plan of a Lot or a subdivision on which is shown the topography, location or all Buildings, Structures, Roads, Right-Of-Ways, boundaries, utilities, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SOLAR PHOTO-VOLTAIC PANEL – See Section 714.

STEEP SLOPE – A grade change of 15% or more.

STORAGE FACILITY, SELF-SERVICE – A Building or group of Buildings divided into separate units or compartments used to meet the temporary storage needs of businesses or persons. A warehouse operated for a specific commercial or industrial establishment shall not be considered a Self-Storage Facility.

STRUCTURE - Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SWIMMING POOL, PRIVATE – A Swimming Pool operated as an Accessory Use to a residential Dwelling Unit or units located on an individual residential Lot, as per New York State Building Code.

TEMPORARY OR SEASONAL OCCUPANCY – The use of any premises, Building or Structure for living and/or sleeping purposes for 180 days or less in any calendar year.

TEMPORARY OR SEASONAL STRUCTURE – A Structure that is intended to be used for a Permitted Use on a seasonal basis for 180 days or less in any calendar year.

USE – The specific purposes for which land or a Building is designed, arranged or intended or, for which it is or may be occupied or maintained.

UTILITY EQUIPMENT TRAILER – Any New York State registered trailer which may be towed and used for carrying or storing goods, equipment, machinery, construction materials, snowmobiles, boats, all-terrain vehicles (ATV), motor vehicles or as a site office.

VARIANCE, AREA – The authorization by the Zoning Board of Appeals for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE - The authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.

WAREHOUSE - A place in which goods or merchandise are stored.

WIND DRIVEN GENERATORS, COMMERCIAL – Refer to the Town of Leicester Wind Energy Facilities Law.

WIND DRIVEN GENERATORS, RESIDENTIAL – Refer to the Town of Leicester Wind Energy Facilities Law.

ZONING BOARD OF APPEALS – The officially established Zoning Board of Appeals of the Town of Leicester.

ZONING MAP – The officially adopted Zoning Map for the Town of Leicester which shows all zoning districts and the respective boundaries of such zoning districts as set forth herein and as may be modified or amended from time to time by local law.

ZONING PERMIT – A permit issued by the Code Enforcement Officer stating that the purpose for which a Building or land is to be used is in conformity with the Uses permitted and all other requirements under this Chapter for the district in which it is located.

ARTICLE III: PERMITS AND APPLICATION PROCEDURES

SECTION 301 - PERMITS REQUIRED.

- A. No use of land or Structures shall be established, changed, or added, nor Building Permit granted, nor Structure erected, nor land developed or subdivided until a Zoning Permit has been approved by the Code Enforcement Officer, who shall approve such permits in accordance with the regulations in this Code.
- B. Application for a Building Permit shall be filed with the Code Enforcement Officer.
- C. Application for a Zoning Permit shall be filed with the Code Enforcement Officer.
- D. When a Building Permit is also required, pursuant to the NYS Uniform Fire Prevention and Building Code, as administered by the Town of Leicester, the application for a Zoning Permit shall be submitted before or at the same time as the application for a Building Permit.

SECTION 302 - CERTIFICATES AND PERMITS.

- A. The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of this Code. A Zoning Permit or Special Use Permit shall be the prerequisite to the erection or alteration, Use or change of use of a Building, Structure or land.

- B. ZONING PERMIT. The Code Enforcement Officer is hereby empowered to issue a Zoning Permit for any plans regarding the construction or alteration of any Building or part of any Building, or the change in use of any land or Building or part thereof, where it has been determined that such plans are not in violation of the provisions of this Code.
- C. SPECIAL USE PERMIT. Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue any Special Use Permit. Special Use Permit Uses are those Uses having some special impact or uniqueness which require a careful review of their location, design, configuration and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are Uses which may or may not be appropriate in a particular location depending on weighing, in each case, of the public need and benefit against the local impact and effect.
- D. CERTIFICATE OF OCCUPANCY AND CERTIFICATE OF COMPLIANCE. The Code Enforcement Officer is hereby empowered to issue a Certificate of Occupancy and/or a Certificate of Compliance which shall certify that all provisions of this Code have been in compliance with respect to the location and use of the Building, Structure or premises in question. The Code Enforcement Officer is also empowered to issue a Certificate of Occupancy for Non-Conforming Uses, provided that the Non-Conforming Use is defined and the Sections of Non-Conformance with this Code are listed.

SECTION 303 - APPLICATION PROCEDURES.

A. PROCEDURES FOR A ZONING PERMIT.

1. All applications for a Zoning Permit shall be made to the Code Enforcement Officer in compliance with the requirements specified in Section 304. Where the proposed Use is a permitted Agricultural Operation or a Single or Two Family Dwelling or Accessory Use in a Residential District, the Code Enforcement Officer shall carefully consider the application for compliance with this Code and either issue or deny a Zoning Permit. When the application is for any other Use in any district, a preliminary Site Plan Application shall serve as the Zoning Permit application, and the Planning Board shall be responsible for reviewing compliance with this Code and directing the Code Enforcement Officer to approve with or without conditions, or deny an application.
2. Zoning Permits shall be issued in duplicate, and one copy shall be posted conspicuously on the premises while any alterations are being completed.

B. PROCEDURES FOR APPEAL. Should an applicant choose to appeal a decision by the Code Enforcement Officer denying issuance of a Zoning Permit, an application for an appeal shall be filled out and submitted along with supporting documents to the Zoning Board of Appeals for its review and determination. Where applicable under Section 239-m

and 239-n of the General Municipal Law, one copy of the application and all supporting materials shall also be referred to the County Planning Board.

- C. PROCEDURES FOR A SPECIAL USE PERMIT. All applications for a Special Use Permit must be made to the Code Enforcement Officer. The Code Enforcement Officer, after determining the application is in proper form and is a complete application, shall transmit one copy of the application and supporting documents to the Planning Board for action thereon. Where applicable under 239-m and 239-n of the General Municipal Law, one copy of the application and all supporting materials shall also be referred to the County Planning Board.
- D. PROCEDURES FOR A CERTIFICATE OF OCCUPANCY. Following the completion of the construction, reconstruction or alteration of any Building, or where a change in the use of a Building or Structure is proposed, the applicant shall transmit by registered mail or deliver in person to the Code Enforcement Officer a letter stating that such construction has been completed in accordance with this Code and all other regulatory requirements or that a new Use has been proposed. Within seven (7) days of the receipt of this letter, the Code Enforcement Officer shall make all necessary inspections of the completed Building or Structure or proposed Use to determine conformance with this Code. A Certificate of Occupancy shall be issued only if the Code Enforcement Officer finds that the construction or proposed Use complies with all the requirements and provisions of this Code.

SECTION 304 - MATERIALS REQUIRED WITH ALL ZONING PERMIT APPLICATIONS.

- A. The materials to be submitted with each application for a Zoning Permit shall clearly indicate the conditions on the site at the time of the application, the features of the site which are to be incorporated into the proposed Use or Building, and the appearance and function of the proposed Use or Building. The Official Town of Leicester Zoning Application form, filled-in completely and accurately, shall be used. At a minimum, the application shall include the following information and plans for both before and after conditions and shall be accompanied by the following (If Site Plan review is required, please see Section 306 for application requirements):
 - 1. Sketch Map drawn to scale and shall indicate:
 - a. The dimensions of the Lot and property boundary lines.
 - b. The exact size and location of all existing and proposed Buildings on the Lot.
 - c. The existing or proposed location of water and sewage disposal systems.
 - d. Existing and proposed parking areas and driveway locations.

- e. Natural watercourses, drainage ways and ponds.
 - f. Significant natural or environmental features such as wooded areas, rock outcroppings, and Steep Slopes (greater than 15%).
 - g. Location of any easements and Rights-Of-Way.
2. Location Map showing the location of the property within the Town, the street address, and the nearest cross streets.
 3. Evidence of property ownership, intent to purchase, or written and signed consent from the landowner authorizing the application for the proposed Use.
 4. Evidence of an approved driveway plan, as permitted by the State Department of Transportation, County Highway Superintendent, or Town Highway Superintendent, as appropriate.
 5. License or Permit: A currently valid license or permit for any use currently licensed or permitted by Federal, State, County or Town Agencies.
 6. Fee: The appropriate non-refundable fee established by the Town Board in its duly adopted fee schedule (which may be modified from time to time) shall be paid at the time of the application and collected by the Code Enforcement Officer.

SECTION 305 - ADDITIONAL MATERIALS REQUIRED WITH A ZONING PERMIT APPLICATION FOR SPECIAL USE PERMIT.

- A. When the Code Enforcement Officer, after review of the Zoning Application form, determines that a proposed Use requires a Special Use Permit, the following information shall be provided by the Applicant:
 1. The location and capacity of existing and proposed vehicular access ways and parking.
 2. The location and dimensions of any existing and proposed sidewalks, walkways or other areas established for pedestrian use.
 3. The design and treatment of existing and proposed open areas, Buffer areas, and screening devices, including dimensions of all areas devoted to lawns, trees, and other landscaping.
 4. Provisions for water supply, sewage disposal, and storm water drainage.
 5. The applicants name and address, telephone number and interest in the subject property.
 6. The Owner's name and address and telephone number if different from the applicant, and the Owner's signed consent to the filing of the application.

7. The street address or legal description of the subject property.
 8. An application for Site Plan Approval as required by Section 306 of this Chapter.
 9. An Agricultural Data Statement of the proposed use is located on or within 500 feet of a Agricultural or Farming Operation in a County Agricultural District.
 10. Any additional information which may be required or deemed desirable by the Code Enforcement Officer or the Planning Board to demonstrate compliance with any additional standards imposed on the Special Use Permit by any particular provision of this Code authorizing the Conditional Use.
- B. The official Town of Leicester Special Use Permit application form shall be used. The applicant shall demonstrate that the proposed Special Use Permit meets the standards as listed in Article III of this Code.
 - C. The Code Enforcement Officer may require the applicant to submit such other data and plans as may be required by the Code Enforcement Officer or the Planning Board to properly implement the intent of this Code and take action on the application.
 - D. The applicant shall submit Part 1 of the Full or Short Environmental Assessment Form as appropriate in order for the Planning Board to conduct an appropriate review under the New York State Environmental Quality Review Act (6 NYCRR Part 617)

SECTION 306 - SITE PLAN REVIEW.

Site Plan review by the Planning Board is required for all Uses except for Single-Family and Two-Family Dwellings and farm use. The official Town of Leicester Site Plan Application form shall be used, in accordance with the procedures in Article V, Section 510.

SECTION 307 - SUBDIVISION PLAN REVIEW.

Subdivision Plan review is required. Standards and procedures are specified in the Town of Leicester Subdivision Law.

SECTION 308 – FEES.

The Code Enforcement Officer shall collect permit and application fees. Fees shall be paid according to the fee schedule adopted and amended from time to time by the Town Board and in effect at the time of application. A fee schedule shall be posted at the Town Clerk’s office and also be available from the Code Enforcement Officer.

SECTION 309 – PROFESSIONAL CONSULTANT FEES REIMBURSEMENT.

- A. DEFINITIONS. As used in this Section, the following terms shall have the meanings indicated:

1. Applicant - Any person, firm, partnership, association, corporation, company, limited liability company or entity or organization of any kind that applies for a permit or approval for any of the following:
 - a. Acceptance by the Town Board for the dedication of sidewalks, highways, public rights-of-way, drainage facilities, parks or utilities.
 - b. Planning Board review or approval of site plans, subdivisions, Special Use Permits or special permits pursuant to relevant provisions of the Code of the Town of Leicester.
 - c. Zoning Board of Appeals approval of variances or special use permits under relevant provisions of the Code of the Town of Leicester.
 - d. Rezoning of real property in the Town by the Town Board.
 - e. The establishment of any improvement district in the Town, pursuant to Article 12, 12-A or 12-C of the New York State Town Law.
 - f. A certificate of occupancy from the Code Enforcement Officer in connection with a development or redevelopment within the Town.
 - g. Any other Application that shall require, at the discretion of the relevant Board, the review of an attorney or an engineer or other professional consultant retained by the Town.
2. Application - The formal request by an Applicant or Developer, as those terms are defined herein, for any permit or approval by the Town Board, Planning Board, Zoning Board of Appeals or Code Enforcement Officer for the items set forth hereinabove in Subsections a through g of the definition of "Applicant" in this section, along with the preparation of any and all plans and submittals submitted in connection therewith, including but not limited to any required review under the New York State Environmental Quality Review Act (SEQRA) or any other New York State or Federal guidelines or requirements.
3. Developer - Any person, firm, partnership, association, corporation, company, limited liability company or entity or organization of any kind, whether or not an Applicant, as defined hereinabove, that constructs or proposes to construct one or more Highways, Drainage Facilities, Utilities or Parks within or in conjunction with a Development and to convey or dedicate the same to the Town.
4. Development - Includes a subdivision, site plan, Special Use Permit, special permit or variance for which approval is required under the Code of the Town of Leicester and any construction of buildings, structures, drainage facilities, highways, parks or utilities to be undertaken in connection with any of the foregoing.

5. Drainage Facility - All surface water drainage facilities, including but not limited to catch basins, detention and retention ponds or basins, storm sewers or other forms of water conveyance facilities and their appurtenances, drainage swales and ditches, and any easements through or over which said facilities may be constructed or installed in or in connection with a development.
6. Highway - Includes a street, avenue, road, square, place, parking area, alley, lane, boulevard, concourse, parkway, driveway, overpass and underpass, or other form of public right-of-way for motor vehicle travel, and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks in or in connection with a Development.
7. Park - An area of land located within a Development which is open to the public and devoted to active or passive recreation, which may include dedicated open space.
8. Town - The Town of Leicester, the Town Planning Board, Assessor, Zoning Board of Appeals, Code Enforcement Officer or Town Board.
9. Utilities - All water, sanitary sewer, gas, electric, telephone, cellular, cable television facilities, fiber optic, Wind Energy Systems or Solar Energy Systems and any easements through or over which said facilities may be constructed or installed in or in connection with a development.

B. REIMBURSEMENT OF FEES AND EXPENSES.

1. The Applicant, for approval of any items set forth hereinabove in Subsections a through g of the definition of "Applicant" in Section 308 A. 1. above, shall reimburse the Town for all reasonable and necessary engineering, legal, other professional consulting fees and reasonable expenses incurred by the Town in connection with the review and consideration of the Application for such approval.
2. A Developer who constructs or proposes to construct one or more Highways, Drainage Facilities, Utilities, Parks, communications towers, antennas or accessory communications structures within or in conjunction with any development in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, other professional consulting fees and other expenses (which shall also include the costs of any necessary studies with regard to the same) incurred by the Town in connection with the inspection and acceptance by the Town of such Highways, Drainage Facilities, Utilities, Parks, communications towers, antennas or accessory communications structures and the dedication of same to the Town, where applicable.
3. Notwithstanding anything to the contrary contained in this Section, an Applicant shall reimburse the Town for all reasonable costs of publication(s) relating to the Application.

C. EXCEPTIONS. Notwithstanding anything to the contrary contained in this Section, an Applicant or Developer shall not be required to reimburse the Town for any part of a legal,

engineering, other professional consulting fees or other expenses incurred by the Town for services performed in connection with legal action by a third party as to which the Town Board determines that the Applicant and/or Developer had no responsibility or which such legal action was beyond the reasonable control of the Applicant or Developer.

D. DEPOSIT OF ESCROW AND PAYMENT OF FEES.

1. Except as otherwise provided herein, simultaneously with the filing of an Application as defined herein, and prior to the commencement of any review of such Application and prior to the construction of Buildings, Highways, Drainage Facilities, Utilities or Parks therein, the Applicant or Developer, as the case may be, shall deposit with the Town Clerk a sum of money, in furtherance of Section 309 B., which such sum may be determined from time to time by the Town Board, or on a case-by-case basis upon the recommendation of the Town engineer or attorney and which such sum of money shall be used to pay the costs incurred by the Town for engineering and legal services and the services of other professional consultants as described in this Section.
2. The Applicant shall pay all engineering fees associated with an Application for subdivision approval as follows:
 - a. For concept approval: together with the Application for preliminary subdivision approval or within 90 days of disposition of the Application for concept approval, whichever is sooner.
 - b. For preliminary subdivision approval: together with the Application for final subdivision approval or within 90 days of the disposition of the Application for preliminary subdivision approval, whichever is sooner.
 - c. For final subdivision approval: prior to signature of the final subdivision plot by the Chairman of the Planning Board or within 90 days of the disposition of the Application for final subdivision approval, whichever is sooner.
3. Payment of all engineering and legal fees and the fees of other professionals associated with an Application for zoning variance or other relief from the Zoning Board of Appeals or the Planning Board (other than subdivision) shall be a condition of such Application and/or approval and shall be charged to and paid by the Applicant prior to the final filing of the resolution granting the relief sought or within 90 days of final disposition of the Application, whichever is sooner. Failure of the Applicant to reimburse the Town for such fees as required hereby shall result in revocation of the conditioned variance approval granted by the Zoning Board of Appeals.
4. Payment of all engineering and legal fees and the fees of other professional consultants associated with an Application for a building permit shall be a condition of such Application and/or approval and shall be charged to and paid by the Applicant prior to the issuance of any certificate of occupancy or within 90 days of final disposition of the Application, whichever is sooner.

5. Payment for engineering and legal costs and the costs of other professional consultants associated with inspection and sign-off on all improvements secured by a letter of credit shall be secured by said letter of credit by provision of additional security in the sum of 4% of the proposed improvement, secured for the Town's engineering and legal costs and the costs of other professional consultants, and 4% to secure the services of Applicant's engineer for site inspection purposes. This security shall not serve as a limit upon the obligation of the Applicant for the entire cost of the Town's engineering and legal costs and the costs of other professionals, which shall be fully payable, with or without recourse to the letter of credit, within 30 days of the inspection or sign-off, whichever is sooner.
6. Upon receipt of such sums, the Town Supervisor shall cause such moneys to be placed in a separate non-interest-bearing account in the name of the Town and shall keep a separate record of all such moneys so deposited and the name of the Applicant or developer and project for which such sums were deposited.
7. Upon receipt and approval by the Town Board of itemized vouchers from an engineer and/or attorney and other professional consultants for services rendered on behalf of the Town pertaining to the Application or Development, the Town Supervisor shall cause such vouchers to be paid out of the moneys so deposited and shall furnish copies of such vouchers to the Applicant or Developer at the same time such vouchers are submitted to the Town.
8. The Town Board shall review and audit all such vouchers and shall approve payment of only such engineering, legal fees and other professional consultant fees as are reasonable and necessarily incurred by the Town in connection with the review, consideration and approval of any Application for Development and the inspection of all construction and acceptance of Highways, Drainage Facilities, Utilities and Parks within or in conjunction with such Development. For purpose of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys or other professional consultants to the Town for services performed in connection with the approval or construction of a similar Development. In this regard, the Town Board may take into consideration the duration of the review process, changes to any submitted plans and/or specifications, the size, type and number of Buildings, Structures or facilities to be constructed; the amount of time to complete the Development; the topography of the land on which such Development is located; soil conditions; surface water; drainage conditions; the nature and extent of Highways, Drainage Facilities, Utilities and Parks to be constructed; and any special conditions or considerations that the Town Board may deem relevant. A fee or part thereof is necessarily incurred if it is was charged by the engineer or attorney or other professional consultant for a service which was rendered in order to protect or promote the health, safety, welfare, community character, compliance with the Comprehensive Plan or other vital interests of the residents of the Town or to protect public or private property from damage from uncontrolled surface water runoff and other factors and to assure the proper and timely construction of Highway, Drainage Facilities, Utilities and Parks and

protect the legal interest of the Town, including receipt by the Town of good and proper title to dedicated Highways and other facilities and the avoidance of claims and liability, and such other interests as the Town Board may deem relevant.

9. If at any time during or after the processing of such application or in the construction, inspection or acceptance of Buildings, Highways, Drainage Facilities, Utilities or Parks there shall be insufficient moneys on hand to the credit of such Applicant or Developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor that such moneys will be insufficient to meet vouchers yet to be submitted, the Town Supervisor shall cause the Applicant or Developer to deposit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses or anticipated expenses.
 10. In the event that the Applicant or Developer fails to deposit such funds or such additional funds, the Town Supervisor shall notify, as applicable, the Chairman of the Planning Board, Town Board, Zoning Board of Appeals and/or the Town's Code Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy may be withheld by the appropriate Board, officer or employee of the Town until such moneys are deposited.
 11. The issuance of a final certificate of occupancy or certificate of compliance shall not occur unless and until all fees incurred hereunder have been paid in full.
 12. After final approval, acceptance and/or the issuance of a certificate of occupancy or certificate of compliance relating to any specific Development, and after payment of all approved vouchers submitted regarding such Development, any sums remaining on account to the credit of such Applicant or Developer shall be returned to such Applicant or Developer, along with a statement of the vouchers so paid.
- E. **DEPOSIT AMOUNTS.** Unless otherwise provided herein, the amount of the initial deposit for the various Developments covered by this Section shall be set forth in a schedule of deposits established from time to time by resolution of the Town Board or in the event of an unusual or particularly sophisticated Application, on a case-by-case basis upon the recommendation of the Town engineer or attorney. Said schedule shall remain in effect and shall apply to all Applicants and Developers until amended or revised by subsequent resolution.
- F. **APPLICATION FEES.** The deposits required by this Section shall be in addition to any Application fees as may be required by other laws, rules, regulations, or ordinances of the Town and shall only be used to offset the specific expenses of the Town in connection with the Application for Development and shall not be used to offset the Town's general expenses for legal and engineering services and other professional consultant services for the several boards of the Town, nor its general administration expenses.
- G. **APPLICABILITY TO PENDING APPLICATIONS.** The provisions of this Section shall be effective regarding engineering and legal fees and other professional consultant fees

incurred from this date forward on pending Applications, after due notice to all pending Applicants.

- H. MUNICIPAL APPROVAL TO ADDRESS FEES. All resolutions or decisions disposing of municipal approval applications shall address the fees imposed in this chapter; provided, however, that the failure to do so does not constitute a waiver of the Town's right to charge and collect said fees or relieve the applicant from the obligation to pay said fees.
- I. WAIVER OF FEES BY TOWN BOARD. Upon proper application to the Town Board, the Board may, in its sole discretion, upon good cause shown, waive any or all of said fees, which waiver shall be effective only by resolution duly adopted by the Board.

ARTICLE IV: ENFORCEMENT

SECTION 401- DESIGNATION OF CODE ENFORCEMENT OFFICER.

The duty of administering and enforcing this Code is hereby conferred upon the Code Enforcement Officer (“CEO”). The CEO shall be appointed by the Town Board and receive compensation as the Town Board shall determine.

SECTION 402 - DUTIES OF THE CODE ENFORCEMENT OFFICER.

- A. It shall be the duty of the Code Enforcement Officer to keep a record of all applications for Zoning Permits and Building Permits and a record of all permits issued with a notification of all special conditions relating thereto. Such records shall be filed and shall be available for use by the Assessor of the Town of Leicester and the Town Clerk.
- B. It shall be the duty of the Code Enforcement Officer, or any duly authorized assistants, to cause any plans, Buildings, Structures or premises to be examined or inspected to determine that they are not in violation of this Code and to issue Certificates of Occupancy and/or Certificates of Compliance and permits.
- C. If, in the course of work, the Code Enforcement Officer determines that any plans, Buildings, Structures or premises are in violation of any provisions of this Code, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and remedies which may be invoked, and the violator’s right to Appeal, all as provided for by this Code.
- D. On the serving of notice by the Code Enforcement Officer to the Owner of any property in violation of any of the provisions of this Code, the Certificate of Occupancy for such Building or Use shall be held null and void. A new Certificate of Occupancy shall be required for any further use of the Building or premises.

- E. The Code Enforcement Officer shall maintain a permanent record of all matters considered and all action taken. Such records shall form a part of the records of the office and shall be available for use by the Town Board and other municipal officials and available for inspection by the public.

ARTICLE V: ZONING BOARD OF APPEALS AND PLANNING BOARD

SECTION 501- CREATION AND APPOINTMENT OF THE ZONING BOARD OF APPEALS.

- A. The Zoning Board of Appeals (“ZBA”) is hereby created, pursuant to Section 267 of NYS Town Law.
- B. The Zoning Board of Appeals shall consist of five (5) members plus two (2) alternates to be appointed by the Town Board. Members shall hold staggered three (3) year terms of office. The alternates shall hold a one (1) year term of office.
- C. The Town Board shall fill a vacancy occurring, other than by expiration of term, by appointment for the unexpired term.
- D. The Town Board shall appoint the ZBA’s Chairperson, after receiving a non-binding recommendation provided by the ZBA. In the absence of the Chairperson, the members of the ZBA may designate a member to serve as acting Chairperson.
- E. No member of the Town Board shall be eligible for membership on the Zoning Board of Appeals.
- F. Members shall attend at least 75% of regular meeting in a calendar year. The Town Board may replace any member who does not attend at least 75% of said meetings or misses three consecutive meetings without good cause.
- G. Each member of the ZBA shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
 - 1. To be eligible for reappointment to such board, such member shall have completed the training promoted by the town pursuant to this subdivision.

2. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
3. No decision of a ZBA shall be voided or declared invalid because of a failure to comply with this section.

SECTION 502 – POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS.

- A. INTERPRETATION. Upon Appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Code, including determination of the exact location of any district boundary if there is uncertainty.
- B. VARIANCES: The ZBA shall hear requests for variances, upon denial of a Zoning Permit by the Code Enforcement Officer, according to the procedures and standards specified in this Code, and in Section 267 of Town Law.

SECTION 503 - MEETING PROCEDURES.

- A. All meetings of the ZBA shall be held at the call of the Chairperson, or at the request of the majority of the members and shall comply with the notice requirements of the New York State Open Meetings Law.
- B. The presence of three members shall constitute a quorum for the conduct of the business before the Board.
- C. All decisions shall be by majority vote of the membership, except in those cases where the County Planning Board has returned a recommendation of disapproval or approval with modification for an action referred to it pursuant to Section 239m or n of the General Municipal Law. In such cases a majority plus one vote shall be required for approval.
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- F. Pursuant to NYS Town Law Section 267, when an alternate member is designated by the Chairman to substitute for a regular member of the Board, it shall be recorded in the ZBA meeting minutes.
- G. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, or request the Town Attorney to attend its meetings.

- H. The Zoning Board of Appeals may require the Code Enforcement Officer to attend its meetings to present any facts relating to a matter before the Board.
- I. All meetings of the Zoning Board of Appeals shall be open to the public.
- J. The Zoning Board of Appeals shall keep written minutes of all its meetings. The Zoning Board of Appeals shall appoint one of its members to serve as Secretary, and one as Vice Chairperson.
- K. The Zoning Board of Appeals may make a factual record of all its proceedings. The Secretary of the Zoning Board of Appeals shall take the factual record.

SECTION 504 - RULES AND EXPENSES.

- A. The Zoning Board of Appeals may adopt procedural rules or procedures for its operation, which are not in conflict with this Local Law, the laws of the State of New York, or applicable Federal Law.
- B. The Town Board shall provide an appropriation to the ZBA to cover necessary expenses, including those required to maintain a written record of its meetings and to hold public hearings.

SECTION 505 - GENERAL PROCEDURES.

- A. All Appeals and applications made to the Zoning Board of Appeals shall be in writing, on forms approved by the ZBA and available from the Code Enforcement Officer.
- B. Every Appeal or application shall refer to the specific provision of the Code involved.

SECTION 506 - STANDARDS FOR GRANTING VARIANCES.

When, in its judgment, the public safety, convenience and welfare will be served, the Zoning Board of Appeals may vary or modify the application of the regulations or provisions of this Code relating to the Use, construction or alteration of Structures or Use of the land. In such cases, the Board is empowered to grant exceptions in harmony with the general purpose and intent of this Code. Variances will be granted in appropriate and specific cases only after public notice and hearing and subject to such appropriate conditions and safeguards the Zoning Board of Appeals may impose.

- A. As used in this Code, a variance is authorized for height, area, size of the Structure, size of yards and open spaces or for establishment or expansion of a Use otherwise not allowed. A variance shall not be granted solely because of the presence of Non-Conformities in the zoning district or Uses in an adjoining zoning district. The ZBA, in the granting of Area Variances, shall grant the minimum variance that it shall deem necessary and adequate and

at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. VARIANCE PROCEDURES.

1. An application for the approval of a variance shall be made by an Owner of an interest in the property on forms available from the Zoning Clerk or Code Enforcement Officer and accompanied by the necessary fees and documents as provided in this Code and the regulations issued hereunder.
2. An application shall be accompanied by a map drawn to appropriate scale and showing all existing and proposed characteristics of the site and adjacent properties necessary for consideration of the variance request. For applications where Site Plan approval is also required, a preliminary Site Plan in accordance with this Code shall be required.
3. An application for a Use Variance in or within 500 feet of an Agricultural or Farming Operation in a county Agricultural District shall be accompanied by an Agricultural data statement.
4. An application for a Use Variance shall be accompanied by an affidavit by the applicant explaining that the application of zoning regulations has caused unnecessary hardship. For a Use Variance, the affidavit must be supported by sufficiently reliable evidence and documentation to prove each of the following:
 - a. That the applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.
 - b. That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - c. That the requested Use Variance, if granted will not alter the essential character of the neighborhood.
 - d. That the alleged hardship has not been self-created.
5. An application for an Area Variance shall be accompanied by a narrative answering the following:
 - a. Whether granting such Variance has the potential to produce undesirable change in the character of the neighborhood or a detriment to nearby properties.
 - b. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.
 - c. Whether the requested Area Variance is substantial.

- d. Whether the proposed Variance could have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.
 - e. Whether the alleged difficulty was self-created.
6. The Zoning Board of Appeals shall fix a time and a place for a public hearing thereon and shall provide for the giving of notice as follows:
- a. A notice shall be published in the official newspaper of the Town at least five days prior to the date thereof.
 - b. The Zoning Clerk shall mail a copy of such notice thereof to the applicant and a copy of such notice to all agencies, municipalities, authorities, etc., as prescribed in Section 267-a of the Town Law and 239 of the General Municipal Law.
7. The Board shall approve, with or without conditions, or disapprove the application within 62 days of the conclusion of the public hearing, as specified in Section 267-a of Town Law and shall communicate its action, in writing, to the applicant and to the Code Enforcement Officer within one week of the time of the meeting at which the Board decided upon the application.
8. When applicable, compliance shall be required in accordance with the provisions of Sections 239-m and 239-n of the General Municipal Law.
9. The Code Enforcement Officer shall, upon receipt of the Notice of Approval and upon application by the applicant, collect all required fees and issue a Building Permit or such other approval permitting the Variance, subject to all conditions imposed by such approval.

SECTION 507 - CREATION AND APPOINTMENT OF A PLANNING BOARD.

The Town Board authorizes the appointment of a five (5) member Planning Board plus two (2) alternate members as more fully described in NYS Town Law Section 271. The terms of Planning Board members shall be staggered, as the law requires. Alternates shall hold one (1) year terms of office.

SECTION 508 - OFFICERS, RULES AND EXPENSES.

- A. The Town Board shall appoint a Chairperson of the Planning Board after receiving any non-binding recommendations by the Planning Board. On failure to do so, the Planning Board shall elect a Chairperson from its own members. The Planning Board may adopt rules or procedures for its operation that are consistent with NYS Town Law Section 271.

- B. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.
- C. Members shall attend at least 75% of regular meeting in a calendar year. The Town Board may replace any member who does not attend at least 75% of said meetings or misses three consecutive meetings without good cause.
- D. Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet the requirements of this subdivision. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
 1. To be eligible for reappointment to such board, such member shall have completed the training promoted by the town pursuant to this subdivision.
 2. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
 3. No decision of a Planning Board shall be voided or declared invalid because of a failure to comply with this section.

SECTION 509 - DUTIES AND POWERS OF THE PLANNING BOARD.

- A. Review and comment on all proposed zoning amendments if requested by the Town Board.
- B. Conduct Site Plan Review as authorized by Town Law 274a. The Board will approve, approve with conditions or deny Site Plans in accordance of this Code.
- C. The Planning Board will approve plats showing Lots, blocks sites, with or without streets or highways, and conditionally approve preliminary plats and pass and approve the development of plats already filed in the office of the Clerk of Livingston County if such plats are entirely or partially undeveloped.
- D. Review and recommend approval with or without conditions or disapproval of Special Use Permit as authorized by this Code.
- E. Review Subdivision Applications as described in the Town of Leicester Subdivision Law.

- F. Render assistance to the Zoning Board of Appeals, if requested.
- G. Research and report on any matter referred to it by the Town Board.
- H. The Planning Board may consult with the Town Building inspector, Attorney for the Town, Fire Departments, Highway Department, County Planning Department and other local County officials, in addition to representatives of Federal and State agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

SECTION 510- PROCEDURES FOR SITE PLAN APPROVAL.

Site Plan review by the Planning Board is required for all Uses except for Single-Family and Two-Family Dwellings and Agricultural/Farming Operations. The official Town of Leicester Site Plan Application form shall be used, in accordance with Article III.

- A. The purpose of Site Plan review is to determine compliance with the objectives of this Chapter where inappropriate development may cause a conflict between Uses in the same or adjoining zoning district by creating conditions which could adversely affect the public health, safety or general welfare.
- B. Prior to the issuance of a Building Permit, Special Use Permit, Variance or other discretionary approval required from the Planning Board or Zoning Board of Appeals for construction, alteration or change of Use in any zoning district, except for a Single-Family or Two-Family Dwelling and related Accessory Uses, or an Agricultural/Farming Operation permitted by right, the Code Enforcement Officer shall require the preparation of a Site Plan. The Code Enforcement Officer shall refer the Site Plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this Section.
- C. Sketch Plan Conference.
 - 1. Applicants are encouraged to meet with the Code Enforcement Officer and/or the Planning Board to review the basic site design concept and determine the information to be required on the preliminary Site Plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with this Code and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detailed plans are made.
- D. Required data. Information to be included on the sketch plan is as follows:
 - 1. An area map showing the parcel under consideration for Site Plan review and all parcels, Structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof or at the discretion of the Building and Zoning Department.

2. A map of site topography at no more than five-foot contour intervals or at the discretion of the Building and Zoning Department. If general site grades exceed 5% or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.
 3. General identification of all existing natural features and utilities on the site and in the area.
 4. The location of all existing and proposed Structures on the site and designated Uses for each.
 5. Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.
- E. Preliminary Site Plan Application. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer at the sketch plan conference. All Site Plan information and building designs shall be prepared by a licensed architect or engineer.
- F. Preliminary Site Plan checklist. Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist and Leicester Design Criteria and Construction Specifications for Land Development available from the Building and Zoning Department. The preliminary Site Plan shall include:
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 2. North arrow, graphic scale and date.
 3. Boundaries of the property, plotted to scale.
 4. The location of existing Lot Lines, easements, Structures, Roads, driveways and natural features within 200 feet of the proposed site or at the discretion of the Building and Zoning Department.
 5. Grading and drainage plan showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project stormwater quantities and the resultant peak flow conditions.
 6. Location, proposed Use, hours of operation and height of all Buildings. Summary of the amount of square footage devoted to each Use requiring off-street parking or loading.

7. Number, location, design and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as may be required.
8. Provision for pedestrian access.
9. Size, type, location and screening of all facilities used for recycling and disposal of solid waste.
10. Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
11. Building elevation(s) showing Building massing, window and door spacing and treatments and other Architectural features and indication of building materials suitable to evaluate Architectural compatibility.
12. Location, purpose and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
13. Location, size, screening and type of material for any proposed outdoor storage.
14. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and Fences.
15. Description of the type and quantity of sewage expected, the method of sewage disposal and the location, design and construction materials of such facilities.
16. Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.
17. Location of fire and other emergency zones, including the location of fire hydrants.
18. Location, design and construction material of all energy-distribution facilities, including electrical, gas and wind power and solar energy and other public utility facilities, such as cable or phone service.
19. Location, size, design and construction materials of all proposed Signs permitted pursuant to Article IIV.
20. Location of proposed Buffer areas, including existing vegetative cover.
21. Location, type, height, brightness and control of outdoor lighting facilities.
22. Size, location and proposed Use of any recreational areas for Multiple Family Dwellings.
23. Identification of permanent open space or other amenities that may be proposed.

24. A table summarizing each Building footprint, total size in square feet and number of stories; the number of Dwelling Units and the amount of square feet devoted to each Use type; size, in square feet or acres, of access, parking and circulation areas, and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
 25. A landscaping plan and planting schedule.
 26. Other elements integral to the proposed development as considered necessary by the Joint Planning Board, to include showing railroads or any other type of transportation facilities not specified.
 27. All forms and information pursuant to the New York State Environmental Quality Review Act (SEQRA).
 28. An Agricultural data statement if the proposed Use is located on or within 500 feet of a Agricultural or Farm Operation in a county Agricultural District.
- G. Required fee. The fee will be established by the Town Board as may be set from time-to-time on its fee schedule and shall be paid when the application is made.
- H. Planning Board Review of Preliminary Site Plan. The Planning Board's review of a preliminary Site Plan shall include, as appropriate, but is not limited to, the following:
1. General considerations as to:
 - a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, Road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities. Conformance with any established access management standards, including but not limited to driveway spacing and provision of shared driveways and cross access easements.
 - b. Adequacy and arrangement of pedestrian traffic access and circulation, walkway Structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - d. Location, arrangement, size, design and general Architectural and site compatibility of Buildings, lighting, Signs and landscaping.
 - e. Adequacy of stormwater calculation methodology and stormwater and drainage facilities to eliminate off-site runoff and maintain water quality.
 - f. Adequacy of water supply and sewage disposal facilities.

- g. Size, location, arrangement and use of proposed or desired open space and adequacy of such open space to preserve scenic views and other natural features; to provide wildlife corridors and habitats; to provide suitable screening and buffering; and to provide required recreation areas.
 - h. Suitability of proposed hours of operation.
 - i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
 - j. Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
 - k. Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
 - l. Conformance with any existing or future Comprehensive Master Plan and other planning studies.
 - m. Conformance with density, lot size, height, yard and lot coverage and all other requirements of zoning district regulations.
2. Applicant to attend Planning Board meeting. Applicant and/or duly authorized representative shall attend the meeting of the Planning Board.
 3. Site Plans shall also provide conformance with any current or future performance standards as duly established by the Town of Leicester.
 4. Consultant review. The Planning Board may consult with the Code Enforcement Officer, Fire Commissioners and other appropriate local and county officials and departments and its designated private consultants (including but not limited to attorneys, engineers or architects), in addition to representatives of federal and state agencies, including but not limited to the Natural Resources Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.
 5. Public hearing. The Planning Board may conduct a public hearing on the preliminary Site Plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within 62 days of the receipt of the application for preliminary Site Plan approval and shall be advertised in a newspaper of general circulation in the Town at least five days before the public hearing.
 6. Planning Board Action on Preliminary Site Plan.

- a. Within 62 days after public hearing or within 62 days after the application was filed if no hearing was held, the Planning Board shall act on the application for preliminary Site Plan approval. The Planning Board's action shall be in the form of a written statement to the applicant, stating whether or not the preliminary Site Plan is approved, disapproved or approved with modifications.
 - b. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final Site Plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary Site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after it has been revised or redesigned.
7. Final Site Plan Approval Procedure. After receiving approval, with or without modifications, from the Planning Board on a preliminary Site Plan, the applicant shall submit a final detailed Site Plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary Site Plan and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary Site Plan for further review and possible revision prior to accepting the proposed final Site Plan for review. The Planning Board may also require a new public hearing. The final Site Plan shall conform substantially to the approved preliminary Site Plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- a. The following additional information shall accompany an application for final Site Plan approval:
 - Record of application for and approval status of all necessary permits from local, state and county officials.
 - Construction details and final material specifications for all required improvements, and such improvements to be in conformance with any design criteria and/or performance standards duly adopted by the Town of Leicester.
 - An estimated project construction schedule.
 - A legal description of all areas proposed for municipal dedication.
 - A conservation easement or other recordable instrument executed by the Owner for any permanent open spaces created.
 - b. If no building permit is issued within one calendar year from the date of final Site Plan approval, the final Site Plan approval shall become null and void.

8. Referral to County Planning Board. Prior to taking action on the final Site Plan, the Planning Board shall refer the plan to the County Planning Board for advisory review and a report in accordance with § 239-m of General Municipal Law.
9. Planning Board Action on Final Site Plan.
 - a. Within 62 days of receipt of the application for final Site Plan approval, the Planning Board shall notify the Building and Zoning Department, in writing, of its decision.
 - b. Upon approval of the final Site Plan and payment by the applicant of all fees and reimbursable costs due and letter of credit, if required, the Planning Board shall endorse its approval on a copy of the final Site Plan. A copy of the approved final Site Plan shall be filed with the Building and Zoning Department and may be provided to the applicant.
 - c. Upon disapproval of a final Site Plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.
10. Letter of Credit. No certificate of occupancy shall be issued until all improvements shown on the Site Plan are installed or, at the discretion of the Planning Board, an irrevocable letter of credit has been posted for improvements not yet completed. The letter of credit shall be approved as to form by the Municipal Attorney and as to amount by the Municipal Engineer. The member of the Planning Board designated to sign Site Plans shall not sign until a letter of credit, if required, has been received by the Building and Zoning Department and approved by the governing board.
11. Inspection of Improvements. The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvements.
12. Integration of Procedures. Whenever the particular circumstances of a proposed development require compliance with either the Special Use Permit procedure or the requirements for the subdivision of land, the Planning Board shall attempt to integrate, as appropriate, Site Plan review as required by this section with the procedural and submission requirements for such other compliance.

SECTION 511- PROCEDURES FOR SPECIAL USE PERMITS.

- A. The Planning Board is hereby granted authority, pursuant to Section 274b of NYS Town Law, to review and recommend approval of Special Use Permits for uses listed in this Code, subject to the criteria specified in this Code.
- B. The Planning Board may also apply conditions to the Special Use Permit which are necessary to protect the general health, safety and general welfare of the community and to protect the character of the neighborhood from potential impacts of the Special Use Permit use.
- C. PROCEDURES.
 - 1. The Code Enforcement Officer shall refer the completed Special Use Permit application to the Planning Board within ten (10) days after receiving a completed application.
 - 2. At the next regular or special meeting, the Planning Board shall review the application and set a public hearing date within a reasonable period of time, not to exceed forty-five (45) days from the date the completed application was made or sixty (60) days in cases when the application must be referred to the County Planning Board in accordance with General Municipal Law Section 239m.
 - 3. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town. The Planning Board shall give notice to the Municipal Clerk of an adjacent municipality when a public hearing is held for a Special Use Permit on property that is within five hundred (500) feet of the adjacent municipality pursuant to NYS Town Law Section 264. Such notice shall be given by mail or electronic transmission to the adjacent municipality at least ten (10) days prior to any such hearing.
 - 4. The notice of the Public Hearing shall contain sufficient information so as to identify the property involved and the nature of the proposed action and shall be sent and published at least ten (10) calendar days prior to the date of the public hearing.
 - 5. The Planning Board shall make a factual record of all its proceedings involving the consideration of a Special Use Permit. The decision of the Planning Board shall contain the reasons for its determination.
 - 6. The Planning Board shall render its decision, approving, approving with conditions, or denying, within forty-five (45) days after the hearing, unless an extension is mutually agreed upon between the applicant and the Planning Board.

D. FINDINGS.

1. The Planning Board may approve a Special Use Permit for uses permitted by Special Use Permit in the zoning district or districts involved provided that all the requirements and conditions set forth in this Code will be satisfied.
2. The Planning Board shall make written findings for each Special Use Permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements of this Code shall be substantiated.

E. SPECIAL USE PERMIT CRITERIA. A Special Use Permit shall be granted only if evidence is presented which establishes that;

1. The proposed Building or Use will be in harmony with the general purpose, goals, objectives and standards of any existing or future Comprehensive Plan, this Code and, where applicable the Town of Leicester Subdivision of Land regulations.
2. The proposed Building or hours of operation or Use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
3. The proposed Building or Use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable district regulations.
4. The proposed Building or Use will be adequately served by essential public facilities and services.
5. The proposed Building or Use complies with all additional standards imposed on it by the particular provision of this Code authorizing such use.
6. All steps possible have been taken to minimize any adverse effects of the proposed Building or Use on the immediate vicinity through Building design, site design, landscaping and screening.
7. If appropriate, a performance bond or other suitable financial guaranty has been provided to assure compliance with the conditions of the Special Use Permit.

SECTION 512 - STATE ENVIRONMENTAL QUALITY REVIEW (SEQR).

- A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.

- B. All actions (as defined by NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.
- C. For zoning action reviewed by the Town, the following bodies shall be lead agency unless otherwise designated by the Town Board:
- Zoning Text Adoption of Amendments – Town Board
 - Zoning District Amendment – Town Board
 - Special Use Permits – Planning Board
 - Subdivisions – Planning Board
 - Site Plan – Planning Board
 - Variances - Zoning Board of Appeals
- D. If in the opinion of the local lead agency, after appropriate review of the Environmental Assessment Form and findings thereon, there appears the potential for significant environmental impact, the lead agency shall cause the applicant to prepare a Draft Environmental Impact Statement.
- E. Review, notice and action on any Environmental Impact Statement shall be conducted according to Part 617 of 8 NYCRR.

SECTION 513 - REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD.

New York State General Municipal Law Sections 239 l, m, and n require that any of the following local zoning actions be referred to the County Planning Board prior to action by the Local Board. Any proposal for a Special Use Permit, variance, Site Plan approval, change in the zoning law text or zoning map (rezoning, amending the zoning law) adoption or amendment of a comprehensive plan, or subdivision which would affect real property lying within a distance of 500 feet from the boundary of:

- Any County.
- Any Town.
- Any Village.
- Any existing or proposed County or State Park or other recreation area.
- Any Right-Of-Way of any existing or proposed County or State Road or parkway.

- Any existing or proposed Right-Of-Way of any of any stream or drainage channel owned by the County.
- Any existing or proposed County or State owned land on which a public building or institution is situated.
 - An Agricultural or Farm Operation located within an Agricultural District established pursuant to Article 25AA of NYS Agriculture & Markets Law (except this Sub-Paragraph shall not apply to Area Variances) shall be referred to the County Planning Board who shall have 30 days from the date of County receipt to take action on the matter. By mutual agreement of the County and the Municipality such 30 day period may be extended in special cases.

SECTION 513 - EFFECT OF COUNTY PLANNING BOARD REVIEW.

- A. If the County approves a referral, then the local Planning Board’s decision is governed by a majority vote.
- B. If the County recommends disapproval or approval subject to stated conditions or modifications, the local Planning Board may override the County opinion only by a majority plus one vote.

SECTION 514 - REPORT ON FINAL LOCAL ACTION.

Within thirty days after final action, the referring body shall file a report of the final action it has taken with the County Planning Agency or Regional Planning Council. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

ARTICLE VI: ZONING DISTRICTS

SECTION 601- ZONING DISTRICTS ESTABLISHED.

The Town of Leicester is divided into the following types of zoning districts, which shall be differentiated according to Use and area:

- A Agricultural District
- R Residential District
- R-C Recreational – Commercial District
- B Business Use District
- I Industrial Use District

SECTION 602- OFFICIAL ZONING MAP.

The above districts shall be located, bounded and described as shown on the Zoning Map of the Town Leicester.

SECTION 603 – ZONING DISTRICT REGULATIONS.

- A. Except as herein provided, no Building or land shall hereafter be used or occupied, and no Building or part thereof shall be erected, moved or altered, unless in conformity with the allowable Uses and standards for development set forth for each zoning district by this Article. All Uses not explicitly listed as Permitted Uses within the regulations governing a given zoning district shall be deemed to be Non-Permitted Uses.
- B. Except as herein provided, no open space contiguous to any Building shall be encroached upon or reduced in any manner, except in conformity with the area requirements, off-street parking requirements, landscaping requirements and all other regulations designated in this Article for the zoning district in which such Building or use is located. In the event of any such unlawful encroachment or reduction, the relevant Building Permit, Use Permit or Certificate of Occupancy shall become void.

SECTION 604 - INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of any of the aforesaid zoning districts as shown on the Zoning Map, the following rules shall apply:

- A. Distances shown on the Zoning Map are perpendicular or radial distances from the Road lines measured back to the zoning district boundary line, which lines in all cases, where distances are given, are parallel to the Road line.
- B. Where zoning district boundaries are indicated as approximately following the center of Roads or highways, street lines or highway Right-Of-Way lines, such center lines, street lines or highway Right-Of-Way lines shall be construed to be such boundaries.
- C. Where zoning district boundaries are so indicated that they approximately follow the Lot Line, such Lot Lines shall be construed to be said boundaries.
- D. Where zoning district boundaries are so indicated that they are approximately parallel to the center lines or street lines of Roads or the center lines of Right-Of-Way lines of highways, such zoning district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated of the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- E. Where the boundary of a zoning district follows a railroad line or is parallel thereto, such boundary shall be deemed to be located or shall be measured from a point midway between the main tracks of said railroad line.

- F. Where the boundary of a district follows a stream, river or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Town of Leicester, unless otherwise designated. If no distance is given, the dimension shall be determined by the use of the scale shown on the Zoning Map.
- G. If an uncertainty still exists as to a boundary line following review of the above items, then the Zoning Board of Appeals shall determine such boundary location.

SECTION 605 – REGULATIONS APPLICABLE TO AGRICULTURAL (A) DISTRICT

- A. **INTENT** – The Agricultural (A) zoning district is intended to promote a balance of Agricultural Uses, open space, and low density residential development, along with other compatible uses that support Agriculture. Conservation of prime Agricultural and state significant soils is encouraged in this zoning district, and non-agricultural development is expected to be directed away from areas containing prime Agricultural soils.
- B. **PERMITTED USES.** Permitted Uses are subject to the requirements outlined in this Code and include the following:
 - 1. Agriculture, Farming Operations and Agribusiness including crop and Livestock farms, horse farms, vineyards, greenhouses, and orchards.
 - 2. Single-Family and Two-Family Dwellings, Seasonal Homes, Manufactured Homes-Doublewides, Modular Homes, private garages and Accessory Structures/Buildings.
 - 3. Seasonal Farm Stands and Farm Markets:
 - a. Produce, including fresh fruits, vegetables, flowers, herbs, Christmas trees, firewood, honey, jams, jellies, and maple products may be sold or offered for sale as an Accessory Use from a Lot where some portion of such produce is grown on the premises.
 - b. Farm Stands are Temporary or Seasonal Structures and must be secured in such a way to prevent them from becoming a safety hazard and must be removed at the end of the season.
 - c. Farm Markets (Permanent Structures) are subject to a Site Plan review by the Planning Board.
 - 4. Home Occupations shall be permitted for activities such as hairdressing, computer repair, electronics repair, woodworking, bicycle sales and repair, locksmith, taxidermy, tack sales and repair, licensed Home Day Care, and other Uses, which the Zoning Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a Home Occupation and shall be permitted for professions such as a doctor, dentist,

veterinarian, attorney, architect, contractor, accountant, broker, surveyor, or other profession which the Zoning Board of Appeals may determine to be eligible for establishing a home office. The Code Enforcement Officer shall request an interpretation from the Zoning Board of Appeals before approving a Zoning Permit for any Home Occupation not listed herein. The following requirements shall apply to all Home Occupations:

- a. No more than two people other than members of the immediate family occupying such Dwelling shall be employed as part of a Home Occupation.
- b. A Home Occupation must be conducted within a Dwelling that is the primary residence of the principal practitioner or in an Accessory Building or Structure thereto which is normally associated with a residential Use.
- c. No more than twenty-five (25%) percent of the Gross Floor Area of a Dwelling shall be used for the conduct of a Home Occupation. No more than forty (40%) percent of an Accessory Building or Structure shall be used for a Home Occupation (except Garages).
- d. In no way shall the appearance of the Structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises or vibrations.
- e. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or a vocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the Home Occupation.
- f. No outdoor display or goods or outside storage of equipment or materials used in the Home Occupation shall be permitted.
- g. No Use shall create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the zoning district in question under normal circumstances wherein no Home Occupation exists.
- h. A Home Occupation shall NOT be interpreted to include the following: commercial stables and Kennels, Restaurants, musical and dancing instruction to groups exceeding four (4) pupils at one time, Convalescent Homes, mortuary establishments, garages or shops for the repair of motor vehicles and other trades and businesses of a similar nature.

- i. No signage shall be permitted except one non-illuminated announcement or professional Sign (which may or may not be attached to the Dwelling) that conforms to this Code's sign regulations
5. Plant Nurseries and Tree Farms – Retail and wholesale businesses for the propagation and sale of trees and plants, including Accessory Uses such as cold storage buildings and sales and/or shipping offices.
 6. Accessory Structures. Other customary residential Structures including but not limited to: gazebo, tool house, shed and similar building for storage of domestic supplies and noncommercial recreational equipment.
 7. Swimming Pools, private.
 8. Farm Labor Camp.
 - a. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no housing site for an Agricultural or Farm Operation shall be relocated, added to and/or expanded or upgraded without permission by the Planning Board. Any additional Dwellings and/or Buildings being added to the original Site Plan will require an amended Site Plan to be filed as part of the Planning Board review process.
 9. Religious Institutions.
- C. USES PERMITTED WITH SPECIAL USE PERMIT. The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:
1. Ponds, Diked and Excavated.
 - a. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no pond shall be constructed that exceeds one acre in size without being engineered and designed by an engineer duly licensed in the State of New York.
 - b. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, the following setbacks should be maintained for all ponds:
 - Minimum of 100 feet from all public highways to the water's edge.
 - Minimum of 100 feet from all property lines to the water's edge.
 - No earth fill will be allowed within seventy-five (75) feet of any property line.
 2. Veterinarian offices and Animal Hospitals.

3. Parks and Recreation Areas, including but not limited to parks, playgrounds, athletic fields, golf courses, Equestrian Facilities (riding stables and riding arenas).
4. Kennels for the boarding or breeding of cats and dogs.
5. Cemeteries – human or animal.
6. Bed & Breakfasts, Tourist Homes.
7. Day Care facility located in a private Dwelling and regulated by Article 390 of the Social Services Law of New York State.
8. Educational/recreational camps.
9. Manufactured Home Parks – Required to be connected to a public water and sanitary sewer system.
10. Sportsman Club.
11. Public Utility, except maintenance and storage yards.
12. Excavation of or Stripping of Topsoil/Sod. Issuance of a Special Use Permit shall be subject to the following conditions:
 - a. An application for a Special Use Permit for the removal of top soil or sod shall state the details of the plan for the reconditioning and rehabilitation of the land after stripping. Such plan shall include the details of preparation of the surface of the land and the liming, fertilization and seeding and shall be subject to the review and approval of the Zoning Board of Appeals as to the sufficiency of the plan. No Special Use Permit shall be issued until the rehabilitation plan provided in the application has been approved by the Zoning Board of Appeals Board.
 - b. Excavation for the removal of topsoil or sod shall be limited to not more than one acre at any given time from any one tract of land until full compliance with this Article is obtained under any existing Special Use Permit for the same tract.
 - c. No Special Use Permit to strip or remove topsoil shall be granted for any land, which, after such stripping or removal, will leave depressions for the accumulation of water. Hill, mound or elevated surface earth and subsoil excavation, when removed from the premises, shall be subject to the provisions of this Article and the requirements set forth in this Subsection.
 - d. The surface topsoil or earth for a minimum depth of six (6) inches shall be stripped from the area to be excavated and piled on the premises for restoration purposes. After the earth and subsoil excavation operation is complete, the piled surface topsoil or earth shall be restored to the area from which it was removed.

- e. The excavation of earth and subsoil operation shall be limited in depth to an established final elevation equal to the average surrounding area elevation within a perimeter of two- hundred (200) feet of the operation unless otherwise approved by the Zoning Board of Appeals. The excavation of or stripping of topsoil or sod shall not adversely affect the surrounding properties.
- f. Dust-down, or its equivalent, shall be used and spread to prevent dust.
- g. A Special Use Permit shall not be authorized or issued for an area in excess of five percent (5%) of the Gross Area of the premises during any calendar year.
- h. Subsequent Special Use Permits for such stripping shall not be authorized or issued for any premises unless the provisions of this Section have been met and the conditions stated in any previous application have been fulfilled to the satisfaction of the Zoning Board of Appeals.
- i. No Special Use Permit shall be authorized or issued for the stripping of topsoil or sod from any premises on which any real property taxes have not been paid.
- j. The provisions of this Section shall not apply to the removal and sale of alluvial deposits resultant from stream erosion, or of the materials excavated resultant from the establishment of a farm pond or fire protection pond for which a permit has been issued.
- k. The removal of topsoil shall not endanger the productivity of the area to be stripped.
- l. No Special Use Permit to strip or remove topsoil shall be granted for any land which is subject to flooding or which will adversely affect the drainage of any adjacent lands.
- m. FEES/COMPLIANCE UNDERTAKING.

- Upon issuance of a Special Use Permit authorized by the Zoning Board of Appeals, the Town Clerk shall charge and collect, pursuant to this Article, fees as provided by resolution of the Town Board which may be established from time to time.
- An acceptable bond or cash deposit shall be posted with the Town to ensure an applicant's compliance with the regulations set forth in this Section, which bond or cash deposit shall be determined by the Zoning Board of Appeals but in no event shall be less than \$2,000.00 for each excavation or removal.

13. Type 2 Solar Energy Systems, subject to the requirements of Section 714.

D. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Lighting in accordance with Article VII.
4. Accessory Structures.
5. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
6. Fences in accordance with Article VII.
7. Keeping of Animals in accordance with Article VII.

E. PROHIBITED USES.

1. Industrial Uses.
2. Adult Entertainment Uses.
3. Any Use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a non-permitted or prohibited Use.

F. SITE REQUIREMENTS. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, the following minimum requirements shall apply to all Uses within the Agricultural (A) zoning district, excepting for Type 2 Solar Energy Systems, which shall be governed by Section 714:

1. Minimum Area – 5 acres.
2. Minimum Lot Width – 400 feet.
3. Minimum Lot Depth – 100 feet.
4. Minimum Set Backs for Principal Buildings:
 - a. Front Set Back– 60 feet from center line of roadway.
 - b. Side Set Back– 40 feet from Lot Line.
 - c. Rear Set Back– 75 feet from Lot Line.
5. Minimum Site Requirements for Accessory Buildings:

- a. Minimum Side Setback – 40 feet from Lot Line.
 - b. Minimum Rear Setback– 30 feet from Lot Line.
 - c. Maximum Building Height – 35 feet.
6. Minimum Setback for pit or ground silos:
- a. 100 feet from the centerline of a Road.
7. Maximum Building Height:
- a. Grain bins and Silos – no limitation.
 - b. Buildings and Structures used for Dwellings or Non-Agricultural Uses – 35 feet.
 - c. Principal Building – 35 feet.
8. Maximum Building Coverage - 5% of the Lot.
9. Minimum Floor Area – 1,000 square feet.

SECTION 606 – REGULATIONS APPLICABLE TO RESIDENTIAL (R) DISTRICT

A. PERMITTED USES. Permitted Uses are subject to the requirements outlined in this Code and include the following:

- 1. Agriculture and Agribusiness including vineyards, greenhouses, and orchards.
- 2. Single-Family and Two-Family Dwellings, Seasonal Homes, Manufactured Homes and Doublewides (not including Manufactured Homes Parks), Modular Homes, private Garages and Accessory Structures/Buildings.
- 3. Home Occupations shall be permitted for activities such as hairdressing, computer repair, electronics repair, woodworking, bicycle sales and repair, locksmith, taxidermy, tack sales and repair, licensed Home Day Care (child care), and other Uses, which the Zoning Board of Appeals determines to be similar in scale and nature. Home offices are considered to be a Home Occupation and shall be permitted for professions such as a doctor, dentist, veterinarian, lawyer, architect, contractor, accountant, broker, surveyor, or other profession which the Zoning Board of Appeals may determine to be eligible for establishing an office in conjunction with the home. The Code Enforcement Officer shall request an interpretation from the Zoning Board of Appeals before approving a Zoning Permit for any Home Occupation not listed herein. The following requirements shall apply to all Home Occupations:

- a. No more than two people other than members of the immediate family occupying such Dwelling shall be employed as part of a Home Occupation.
- b. A Home Occupation must be conducted within a Dwelling that is the primary residence of the principal practitioner or in an Accessory Building or Structure thereto which is normally associated with a residential Use.
- c. No more than twenty-five (25%) percent of the Gross Floor Area of a Dwelling shall be used for the conduct of a Home Occupation. No more than forty (40%) percent of an Accessory Building or Structure shall be used for a Home Occupation (except Garages).
- d. In no way shall the appearance of the Structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises or vibrations.
- e. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or a vocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the Home Occupation.
- f. No outdoor display or goods or outside storage of equipment or materials used in the Home Occupation shall be permitted.
- g. No Use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than usually experienced in an average residential occupancy in the zoning district in question under normal circumstances wherein no Home Occupation exists.
- h. A Home Occupation shall NOT be interpreted to include the following: commercial stables and Kennels, Restaurants, musical and dancing instruction to groups exceeding four (4) pupils at one time, Convalescent Homes, mortuary establishments, garages or Motor Vehicle Service Stations and other trades and businesses of a similar nature.

4. Religious Institutions.

5. Municipal Buildings and services.

6. Public schools, public parks and playgrounds.

7. Swimming Pools, Private.

B. USES PERMITTED WITH SPECIAL USE PERMIT. The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such

safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:

1. Ponds, diked and excavated.
2. Seasonal farm stands and farm markets.
3. Bed & Breakfasts, Tourist Homes.
4. Home Day Care facility located in a private Dwelling and regulated by Section 390 of the Social Services Law of New York State.
5. Public Utilities, except maintenance and storage yards.
6. Funeral Homes.
7. Multiple Family Dwellings.

C. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Lighting in accordance with Article VII.
4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
5. Fences in accordance with Article VII.
6. Keeping of animals in accordance with Article VII.

D. PROHIBITED USES.

1. Industrial Uses.
2. Adult Uses.
3. Any Use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

E. SITE REQUIREMENTS. The following minimum requirements shall apply to all Uses within the Residential (R) zoning district:

1. Maximum Lot Area – Less than 5 acres.

2. Minimum Lot Width and Area:

a. Single and Two-Family Dwellings:

- Serviced by a Municipal water supply:

- Minimum Lot Width – 100 feet.

- Minimum Lot Area – 20,000 feet*

* A larger minimum Lot size shall be required when the County Health Department determines, after reviewing the soils and percolation (“perc”) test data that a larger Lot size is necessary for adequate operation of an on-site sewage disposal system.

- No Municipal water supply:

- Minimum Width – 200 feet.

- Minimum Depth – 200 feet.

- Minimum Lot Area – 40,000 square feet*

* A larger minimum Lot size shall be required when the County Health Department determines, after reviewing the soils and percolation (“perc”) test data that a larger Lot size is necessary for adequate operation of an on-site sewage disposal system.

b. Multiple Family Dwellings:

- Serviced by a Municipal water supply:

- Minimum Width – 150 feet.

- Minimum Lot Area – 37,500 feet*

- Non Municipal Water supply:

- Minimum Width – 250 feet.

- Minimum Depth – 250 feet.

- Minimum Lot Area – 62,000 feet.*

* A larger minimum Lot size shall be required when the County Health Department determines, after reviewing the soils and percolation (“perc”) test data that a larger Lot size is necessary for adequate operation of an on-site sewage disposal system.

3. Minimum Set Backs:

- a. Front Set Back – 60 feet from centerline of Road.
- b. Side Set Back – 20 feet from Lot Line.
- c. Rear Set Back – 60 feet from Lot Line.

4. Maximum Building Coverage – 30% of Lot.

5. Minimum Floor Area – 1,000 square feet.

6. Maximum Building Height:

- a. Principal Building – 35 feet.

7. Accessory Buildings - Site Requirements:

- a. Minimum Side Setback – 10 feet from Lot Line.
- b. Minimum Rear Setback - 10 feet from Lot Line.
- c. Maximum Building Height – 20 feet.
- d. Maximum Building Coverage – 20% of lot.
- e. Maximum Gross Floor Area – 1,200 square feet

SECTION 607- REGULATIONS APPLICABLE TO RECREATIONAL – COMMERCIAL (R-C) USE DISTRICT.

A. PERMITTED USES. No Structure or premises shall be used and no Building or Structure shall be erected or structurally altered except for one or more of the following Uses:

- 1. Competition Sporting Events utilizing a “drag-strip” and/or an oval track and a racetrack or racetracks for the use of any motorized vehicles, including but not limited to automobiles, “stock cars”, “dragsters”, “go-carts”, motorcycles, farm tractors or snowmobiles.

2. Supporting Accessory Structures that are typically necessary for the business operation including but not limited to Garages, motor pits or paddocks, ticket booth, parking lots, bleachers and/or a stadium.
 3. Temporary camping areas for tents and trailers during scheduled events.
 4. Concession stands.
 5. Social clubs and attendant social activities both public and private.
 6. Auto testing, both individually and by manufacturers.
 7. Tractor pulling events.
 8. Rodeos and Equestrian events.
- B. USES PERMITTED WITH SPECIAL USE PERMIT.** The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:
1. Local fairs and carnivals.
 2. Outdoor music concerts.
 3. Fireworks displays.
 4. Public Utility, except maintenance and storage yards.
- C. ACCESSORY USES.**
1. Signs in accordance with Article VII.
 2. Parking in accordance with Article VII.
 3. Lighting in accordance with Article VII.
 4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
 5. Fences in accordance with Article VII.
 6. Keeping of animals in accordance with Article VII.
- D. PROHIBITED USES.**
1. Adult Entertainment.

2. Residential Uses.
3. Industrial Uses.
4. Any use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

E. GENERAL REGULATIONS.

In each case where a Building or Use is proposed in this district pursuant to the provisions hereof, the Code Enforcement Officer shall refer the plans, description of the purposed Use, and a proposed Site Plan to the Planning Board for Site Plan review pursuant to Article V, Section 510. Such Board may hold a public hearing thereon and shall determine:

1. Whether all the requirements of this Code have been met.
2. Whether the health, safety, morals and general welfare of the community would be protected if Site Plan approval was granted.
3. Whether said Site Plan should be approved as submitted or subject to such conditions, restrictions and safeguards as may be necessary by said Board, or be disapproved.

F. SITE REQUIREMENTS.

1. Minimum Set Backs:
 - a. Front- 150 feet – from centerline of Road.
 - b. Side –at least 100 feet from Lot Line, but no less than 200 feet from any residential Use.
 - c. Rear - 100 feet from Lot Line.
 - d. Accessory Buildings – Minimum Set Backs:
 - Side – 10 feet from property line.
 - Rear – 10 feet from property line.
 - e. Maximum Building Height:
 - Principal Building – 35 feet.
 - Accessory Building – 35 feet.

SECTION 608 - REGULATIONS APPLICABLE TO BUSINESS USE DISTRICTS (B).

- A. INTENT – It is the intent of this zoning district to provide areas which will accommodate Commercial Uses within the Town. The standards provided herein are designed to assure the development of safe, convenient and attractive shopping and service facilities.
- B. PERMITTED USES. In the Business District the Permitted Uses shall be as follows, subject to the requirements specified below and elsewhere in this Code, especially Site Plan review pursuant to Article V, Section 510.
1. Professional Offices occupying less than 10,000 square feet of building area, including medical and other business offices, such as but not limited to attorneys, accountants, architects, engineers, doctors, dentists, other medical specialists, psychiatrists, psychologists, therapists, chiropractors, insurance, travel or real estate agents and offices of not-for-profit organizations.
 2. Services occupying less than 10,000 square feet of building area and including consumer, personal and business services, such as but not limited to banks, self-service laundries and dry-cleaning outlets, tailors, repair shops (shoe, appliance, etc.), mini storage, barbershops, beauty salons, tanning salons, copy shops, video stores and art, craft or dance schools.
 3. Retail Stores occupying less than 10,000 square feet of building area and including stores selling goods at retail to individual and business customers, such as but not limited to sales of food including food preparation for retail sale on the premises, shoes, clothing, home furnishings, appliances, computers and electronic equipment, hardware, paint and wallpaper, sport/hobby equipment, books, luggage, cards and gifts, jewelry, liquor, drugs, fabrics and flowers.
 4. Indoor Commercial Recreation facilities occupying less than 40,000 square feet of building area in a completely enclosed Building, including facilities for fitness activities, such as running, swimming, competitive sports, bowling or skating, and other Recreational Uses, such as arcades, performing arts centers or pool halls and other similar activities.
 5. Bed and Breakfast Dwelling, Tourist Homes.
 6. Mixed Use Structures combining Permitted Commercial Use(s) on the first floor or street side of a Building and Residential Use on the upper floor(s) or to the rear of the Building.
 7. Unless exempted by New York State Agricultural and Markets Law Article 25-AA, only Agricultural or Farming Operations in lawful existence as of the date of adoption of this Section shall be allowed to continue and shall be considered a Permitted or Conforming Use.

8. Restaurants, including accessory outdoor dining facilities.
9. Private clubs.
10. Public Use, such as place of worship, park, school.
11. Salesroom or shop of a builder, contractor or artisan.
12. Funeral Homes.

C. **USES PERMITTED WITH SPECIAL USE PERMIT.** The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:

1. Bar, Tavern or any Use, other than a Restaurant, which is licensed to provide alcoholic beverages for on-premises consumption.
2. Residential care facility.
3. Outdoor Commercial Recreation Facility, such as a batting cage, driving range, miniature golf course, water or amusement park, performing arts center, or uses of similar nature.
4. Accessory outdoor sales or storage of goods, materials or equipment.
5. Movie theater.
6. Public Utility, except maintenance and storage yards.
7. Use containing a Building or Structure larger than 40,000 square feet.
8. Drive-In Facility.
9. Hotel/Motel.
10. Outpatient health center.
11. Motor Vehicle Service Station or Sales, Repair or Motor Vehicle Washing establishment.
12. Convenience stores with retail fuel sales.
13. Warehouse facilities.
14. Garages, Gas Stations, and Motor Vehicle Sales Area.
15. Manufactured Home Parks.

16. Other Uses which, in the opinion of the Zoning Board of Appeals, are in the same general character as those listed as Permitted Uses or Uses Permitted with a Special Use Permit and will not be detrimental to the zoning district in which they are located.

D. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Lighting in accordance with Article VII.
4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.
5. Fences in accordance with Article VII.
6. Private Garage space for the storage of commercial vehicles used in conjunction with a Permitted Business Use.

E. PROHIBITED USES.

1. Commercial operations whose Principal Use is the storage, production, or sale of hazardous or radioactive materials, as defined by the United States Department of Transportation in Title 49 of the United States Code.
2. Commercial operations which in any part involve the slaughtering or processing of animals, poultry or fish, including the parts thereof.
3. Expansion of pre-existing Non-Conforming Residential Uses.
4. Wholesale bulk fuel storage.
5. Landfills.
6. Commercial feedlots.
7. Adult Entertainment Uses.
8. Keeping of Livestock.
9. Any use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

F. SITE REQUIREMENTS.

1. Building Height- maximum height: 35 feet.
2. Required Lot Area.
 - a. Minimum Lot Width: 200 feet.
 - b. Lot Size. Required Lot size shall be established by the Planning Board during the Site Plan review and approval process. The required minimum Lot size shall be based on the amount of land necessary to accommodate adequately the proposed Principal Use and any intended Accessory Uses and associated parking, loading and planted open space areas while respecting setback requirements and on-site circulation needs, including pedestrians, vehicles and emergency vehicles. If the Lot size cannot meet the applicable standards of the proposed Use for circulation, parking, landscaping, lot coverage and setbacks, the Planning Board may require a reduction in scale or intensity of the Use or the combination of Principal and Accessory Uses and/or Conditionally Permitted Uses before taking action on a Site Plan.
 - c. Maximum Percentage of Lot coverage – 40%.
 - d. Minimum Setbacks:
 - Front setback – 50 feet.
 - Side setback – 25 feet.
 - Rear setback – 50 feet.

SECTION 609 - REGULATIONS APPLICABLE TO INDUSTRIAL USE (I) DISTRICTS.

- A. INTENT. The intent of the Industrial Use District is to identify and set aside areas within the Town of Leicester that are most appropriate for Industrial-Related Uses. Accommodation of new Industrial Uses is intended to maintain a balanced tax base and to provide employment opportunities for local residents. Suitable locations for Industrial Uses are easily accessible for state highways and are appropriately buffered from Residential and Commercial Uses.
- B. PERMITTED USES. No Structure or premises shall be used and no Building or Structure shall be erected or structurally altered except for one or more of the following Uses:
 1. Plants for canning, preserving, processing or manufacturing all types of food derivatives.
 2. Cold storage plants.
 3. Manufacturing and storage Uses limited to the following processes and products:

- a. Bakeries or baking plants.
 - b. Bottling works.
 - c. Construction materials storage yards.
 - d. Creameries, milk condensing or dairy plants.
4. Laundries.
 5. Lumber yards.
 6. Rental of Self Service Storage Facilities involving no outdoor storage of materials or equipment.
 7. Professional Offices.
 8. Research and Development facilities.
 9. Service industries of the type that provide service to other industries rather than the needs of the retail customers.
 10. Production, processing and assembly operations, provided that such uses are conducted entirely within an enclosed Building.
 11. Manufacturing of electrical, electronic or optical instruments or devices.
 12. Manufacturing, assembly or fabrication of small machine parts, office and household machinery or appliances or tool and die products.
 13. Fabrication of paper products, such as packaging materials, office and household supplies, stationary and toys.
 14. Packaging of products from previously prepared materials, such as cloth, plastic, paper, leather or precious or semiprecious metal or stones.
 15. Graphic arts and related light-printing operations.
 16. The processing of plastics and chemical products from manufactured or refined products into finished goods.
 17. Fabrication of wood products from pre-milled and finished wood materials.
 18. Wholesale production of food products.

19. Unless exempted by New York State Agricultural and Markets Law Article 25AA, only Agricultural or Farming Operations which are in lawful existence as of the date of adoption of these regulations shall be allowed to continue and shall be considered as a Permitted or a Conforming Use.
20. Other Uses which, in the opinion of the Zoning Board of Appeals, are of the same general character as those listed as Permitted Uses and which will not be detrimental to the zoning district in which they are located.

C. ACCESSORY USES.

1. Signs in accordance with Article VII.
2. Parking in accordance with Article VII.
3. Garage or other Accessory Structure which is necessary to store materials, vehicles or equipment related to the lawful Principal Use of the property.
4. Alternative Energy Systems in accordance with Article VII, excepting any Type 2 Solar Energy Systems.

D. USES PERMITTED WITH SPECIAL USE PERMIT. The Zoning Board of Appeals after a public hearing may authorize the issuance of a Special Use Permit subject to such safeguards, conditions and restrictions as the Zoning Board of Appeals shall deem necessary for the purpose of compliance with this Code for the following:

1. Garages, Gas Stations/Convenience Stores and Motor Vehicle Sales Areas or Agricultural equipment sales agencies.
2. Public Utility.
3. Motor Vehicle Repair facility.
4. Private heliport. The facility must conform to all Federal Aviation Administration regulations and standards.
5. Adult Entertainment Use in accordance with Town of Leicester Adult Entertainment Law.
6. Any facility for which the prime purpose is the handling of recycled materials.
7. Other Uses which, in the opinion of the Zoning Board of Appeals, are of the same general character as those listed as Permitted Uses or Uses Permitted with a Special Use Permit and which will not be detrimental to the zoning district in which they are located.

E. PROHIBITED USES.

1. Residential uses.
2. Commercial or Agricultural or Farming Operations which in any part involve the slaughtering or processing of animals, fish or poultry, including the parts thereof.
3. Commercial recreation facility.
4. Wholesale bulk fuel storage.
5. Commercial feed Lots.
6. Industries whose principal activity is the storage, production, processing or sale of hazardous or radioactive materials, as defined by the United States Department of Transportation in Title 49 of the United States Code.
7. All Uses of land, Buildings and Structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions that cannot be reasonably mitigated through conditions placed in an approved Site Plan or Special Use Permit.
8. Any Use not specifically listed as a Permitted Use, Use Permitted with a Special Use Permit or Permitted Accessory Use shall be deemed to be a Non-Permitted or Prohibited Use.

F. GENERAL REGULATIONS. In each case where a Building or Use is proposed in this zoning district pursuant to the provisions hereof, the Code Enforcement Officer shall refer the plans, description of proposed Use, and Site Plan to the Planning Board for consideration of such Site Plan pursuant to the provisions contained in Article V, Section 510.

G. SITE REQUIREMENTS.

1. Lot size – to be determined through Site Plan review.
2. Minimum set backs:
 - a. Front* – 150 ft.
 - b. Side – 100 ft. or 200 ft. from the border of any residential district.
 - c. Rear – 100 ft. or 200 ft. from the border of any residential district.

*Properties abutting State Highways shall be required to provide an additional 15 ft. for the front setback.

3. Minimum set backs for an Accessory Structure:

a. Side – 20 ft.

b. Rear – 30 ft.

4. Maximum building height:

a. Principal Building – 45 ft.

b. Accessory Structure – 15 ft.

5. Maximum building coverage*:

a. Principal Building – 50% of the Lot.

* Note: Maximum Lot coverage by improvements per plan (including all Structures and parking areas) shall cover less than 70% of the parcel.

H. OTHER PROVISIONS. No Use in this zoning district shall be located closer than 50 feet from any property line abutting a non-industrial zoning district. This 50 foot Buffer strip shall be perpetually maintained with plant material to provide a visual screen between the Industrial Land Use and the adjoining Non-Industrial Use.

ARTICLE VII. REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SECTION 701- GENERAL REGULATIONS.

- A. All Uses not explicitly listed as Permitted Uses within the regulations governing a given zoning district classification shall be deemed to be Non-Permitted Uses. This restriction shall apply to each and every zoning district classification within the municipal bounds of the Town.
- B. Where two or more adjacent Lots are at the time of the enactment of this Code in the same ownership, they shall for the purposes of this Code be considered a single Lot, except if a subdivision map has been filed with the Livingston County Clerk, in which case the applicable provisions of Town Law Section 265-a exemption of Lots shown on approved subdivision plats shall apply.
- C. No Single-Family or Two-Family residential Lot shall contain more than one Principal Building. Accessory Structures and Accessory Uses, including Swimming Pools, cannot

obstruct driveway to highway vision from either the applicants or an adjacent property driveway.

- D. Buildings, Structures and lands lawfully established, located or occupied at the time of the enactment of this Code which are not in conformity with the provisions of this Code may be continued. Changes in such conformities shall be restricted and subject to the provisions of this Code applicable to Non-Conforming Uses.
- E. Accept as provided herein for Non-Conforming Uses, no Building or land shall be used or occupied and no Building or part thereof shall be erected, altered or placed, unless in conformity with the regulations for the zoning district in which it is located until a Building Permit or a Certificate of Occupancy shall have been issued in conformity with the provisions of this Code.
- F. No Lot occupied by a Building or Buildings shall be reduced in size to such an extent as to cause a violation of this Code.
- G. All landscaping required by an approved Site Plan shall be completed within one (1) year from the approval date of such Site Plan.
- H. All applications for any zoning permit, including but not limited to Site Plan approval or issuance of a Special Use Permit must comply with the NYS Uniform Building Maintenance and Fire Prevention Code in effect at the time of such approval. If any Livingston County or New York State Permit or license is required as a result of the proposed Use, a copy must be submitted with the application before a zoning permit or any approval is issued.
- I. All applications must comply with the following regulations, if relevant:
 - 1. Town of Leicester Wind Energy Facilities Law.
 - 2. Town of Leicester Junk/Scrap Yard and Junk Storage Law.
 - 3. Town of Leicester Adult Entertainment Law.
 - 4. Town of Leicester Right to Farm Law.

SECTION 702- LANDSCAPING, SCREENING AND BUFFER REGULATIONS.

- A. INTENT. The following standards are intended to implement the Town of Leicester's long term planning goals by assuring an acceptable degree of Buffering between land uses, particularly between Residential and Non-Residential Uses, including Agricultural and Farming Operations, providing a balance between developed Uses and open space, enhancing the visual and aesthetic appearance of the community and encouraging preservation of existing natural features. Specifically, these regulations are intended to:

1. Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
2. Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
3. Provide natural Buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.
4. Moderate the microclimate of parking areas by providing shade, absorbing reflective heat from paved surfaces and creating natural wind breaks.
5. Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.

B. GENERAL REQUIREMENTS.

1. Development activities requiring Site Plan approval shall submit, as part of such approval, a landscaping plan. These development activities shall include, but not be limited to, major and minor subdivisions, commercial, retail, and Industrial Uses.
2. Existing site vegetation and unique site features, such as stone walls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are retained shall be credited against the requirements of these regulations in accordance with their size and location.

SECTION 703 - CORNER LOTS.

- A. With corner Lots, the sides facing both Roads shall be considered front yards. Of the other sides, one shall be considered a rear yard and the other a side yard at the Owner's option.

SECTION 704 - EXISTING UNDERSIZED LOTS OF RECORD.

- A. Any residential Lot existing prior to the adoption of this Code and whose area, width and/or depth dimensions are less than the minimum requirements specified herein for the zoning district in which it is located, may be considered as complying with these regulations and no variance therefore shall be required, provided that:
1. Such Lot does not adjoin any other Lot or Lots held by the same Owner, the aggregate area of which Lots is equal to or greater than the minimum Lot area required by the zoning district.
 2. The minimum yard requirements set by this Code are met.

SECTION 705 - SLOPE OF YARDS.

- A. The surface of the front yard at the front wall of any Dwelling shall not be less than one (1) foot above the elevation of the center line of the street or highway measured at the midpoint between the side lines of the Lot.
- B. The surface of any side or rear yard at the foundation wall shall slope away from the Dwelling for a distance of not less than five (5) feet.
- C. Where unnecessary hardship due to topography conditions is proven, the Zoning Board of Appeals may vary front yard slope requirements so that no minus grade is established within fifteen (15) feet of the front Building line or within eight (8) feet of a side or rear wall; and also, on condition that when the level of the first floor of a Dwelling is of lower elevation than the elevation of the center line of a Road or highway, there shall be established a terrace so that the level of the first or principal floor shall be at least one (1) foot above the grade of the front, side and rear yards measured at any point six (6) feet outside of all walls of the Dwelling.

SECTION 706 – FENCES.

- A. The installation, or replacement, of a Fence within the Town of Leicester must meet the following criteria:
 - 1. A Building Permit is required prior to installation of a Fence unless prohibited by New York State Agriculture and Markets Law Article 25-AA §305-a.
 - 2. A request for a permit must be obtained from the Code Enforcement Officer. A request for a permit shall be accompanied by a Site Plan which shall show the height and location of the Fence in relation to all other Structures and Buildings as well as in relation to all Roads, Lot Lines and yards.
 - 3. All Fencing must be installed, or replaced, in conformance with the NYS Uniform Code. Fencing shall be located on an individual's own property and not on adjoining property or directly upon a Lot Line.
 - 4. No Fencing shall be installed, or replaced, which poses a potential hazard to either pedestrians or motorist by restricting vision.
 - 5. Any Fence shall have its most decorative or pleasant side facing the adjacent properties. The Fence posts and other supporting structures of the Fence shall face the interior of the area to be fenced unless such posts or supports are an integral part of the decorative design of the Fence.
 - 6. Height is measured from the finished grade to the highest part of the Fence.

7. Fences six (6) feet or less in height are exempt from set back requirements. Fences taller than six (6) feet are allowed only in Recreational-Commercial (R-C), Industrial Use (I) Districts and for Type 2 Solar Energy Systems located in Agricultural Districts (A) and must be set back from the Lot Line. In no case shall the height of the Fence exceed its setback from an adjacent Lot.
8. Fences incorporating barb wire, electric current or similar materials or devices shall be allowed only when necessary for Agricultural or Public Utility operations and, unless part of an Agricultural or Farming Operation, shall be subject to a minimum ten (10) foot setback.
9. The Planning Board as part of subdivision or Site Plan review, may require a Fence or other screen to shield adjacent residences or other Uses from undesirable views, noise or light.
10. Fences shall be maintained to provide functional, visual and structural integrity.
11. In front yards - Fences or plantings or bushes used in lieu of a man made Fence shall not be located closer than one (1) foot to the edge of the Road Right-Of-Way.

SECTION 707 - KEEPING OF LIVESTOCK.

- A. The keeping, sheltering, harboring or maintaining Livestock, except as part of an Agricultural or Farming Operation, shall be subject to the following standards:
 1. The minimum size Lot for keeping, sheltering, harboring or maintaining Livestock shall be five (5) acres.
 2. A maximum of two (2) Livestock may be kept, sheltered, harbored or maintained per the minimum five (5) acres.
 3. One additional Livestock may be kept, sheltered, harbored or maintained for every additional 2.5 acres over the required minimum five (5) acre parcel size.
 4. Set backs:
 - a. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no Building in which Livestock is kept shall be located within fifty (50) feet of any Lot Line or within one-hundred fifty (150) feet of any adjoining residence.
 - b. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, there shall be no storage or piling of manure within two-hundred (200) feet of any adjoining residence or within one-hundred (100) feet of any Lot Line. All such manure shall be stored, treated and /or removed in such a manner as not to create any odor or attract any rodents, flies, or other insects.

- c. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, no swine shall be kept within five-hundred (500) feet of any adjoining residence and two-hundred (200) feet of any Lot Line.
 - d. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a , any enclosure intended for or occupied by such animals on the premises shall be located the greater of one-hundred fifty (150) feet to the nearest Dwelling Unit on an adjoining Lot or thirty (30) feet from any side or rear Lot Line and not less than seventy-five (75) feet from any Front Lot Line.
5. CERTAIN ANIMALS ARE PROHIBITED. The keeping of any animal which may not be lawfully owned by individuals pursuant to the laws of the State of New York is prohibited in the Town of Leicester.

SECTION 708 – KENNELS.

- A. The Kennel and its operation shall not create nuisance conditions for adjoining properties due to noise or odor.
- B. All animals will be confined to the property and housed in an enclosed Structure in humane conditions (i.e. protected from the weather, clean and sanitary, adequate space, non-porous surfaces, well ventilated, etc.).
- C. Animals are to be kept inside an enclosed Structure between the hours of 8:00 p.m. and 6:00 a.m.
- D. Adequate methods for sanitation and sewage disposable must be used.
- E. Kennels and exterior pens, including dog runs, shall be located at least 200 feet from the nearest Dwelling (other than the owner or user of the property) and at least 100 feet from any Lot Line. Landscaping, screening or Buffering may be required by the Planning Board pursuant to the Site Plan approval process, to minimize the visual and auditory impact to neighboring properties.

SECTION 709 - OUTDOOR LIGHTING.

- A. INTENT. The purpose of this Section is to establish regulations to allow for outdoor illumination levels which are appropriate for the Use, and safety and security, while minimizing the undesirable side effects of excessive illumination such as glare, light trespass, and light pollution. Over time, it is the intent that this Section will allow for reasonably uniform illumination levels in the community.
- B. APPLICABILITY. This Section shall apply to all outdoor lighting fixtures installed during new construction, the expansion and alteration of existing Structures, as well as the replacement of pre-existing lighting fixtures.

C. APPROVALS REQUIRED. For Uses which require Site Plan review, the Planning Board shall require a lighting plan to be submitted showing the location, numbers, type/style, mounting height, and lighting levels produced on the ground (i.e. photometric report). All other Uses shall conform to the general requirements contained herein.

D. GENERAL REQUIREMENTS/STANDARDS.

1. All lights shall be Dark Sky compliant.
2. All outdoor lighting fixtures shall be shielded or otherwise contained on the Lot which it originates from, so as to prevent Light Trespass onto other Lots.
3. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

E. SPECIFIC REQUIREMENTS/STANDARDS.

1. Parking lots. Parking lot lighting shall not exceed levels necessary for safety/security purposes and for locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or incorporate design features with the intent of eliminating offsite Light Trespass.
2. Canopy and Roof Overhang. Lights installed on Canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the Canopy or roof overhang.
3. Outdoor Signs. Lighting fixtures used to illuminate an outdoor Sign shall be shielded or directed in such a way that the light illuminates the Sign only. Internal illumination of a Sign shall be concealed behind opaque, translucent, or other similar types of glass.
4. Bottom-mounted or Up-lighting. To comply with “Dark Sky Compliance” and minimize unnecessary lighting, up-lighting shall be only allowed for flagpoles that display Federal, State, and/or local government flags, provided that the illumination is directed onto the flagpole only.

F. EXEMPTIONS. The following types of outdoor lighting are exempt from this regulation unless otherwise specified:

1. Road lighting installed by the Town of Leicester, Livingston County Highway Department, or the NYS Department of Transportation.
2. Holiday lighting.

3. All temporary emergency lighting needed by police or fire departments or other emergency services.
4. All hazard warning luminaries required by Federal regulatory agencies.
5. Lighting associated with Agricultural or Farming Operations. However Agricultural or Farming Operations within 100 feet of an adjacent Dwelling (not associated with such operation) shall be shielded to prevent Light Trespass onto the adjoining Lot.

G. PROHIBITED LIGHTING.

1. Blinking, flashing, strobe or search lights.
2. Exposed strip lighting used to illuminate Building facades or Signs.
3. Any light that may be confused with or construed as a traffic control device.

SECTION 710 - MANUFACTURED HOMES AND MANUFACTURED HOME PARKS.

- A. INTENT – The purpose of this Section is to provide minimum standards, regulations and requirements for the development or expansion of new or existing Manufactured Home Parks and the siting of Manufactured Homes or Double Wide outside of a Manufactured Home Park. Nothing herein shall be interpreted or construed to suggest that the minimum standards set forth may not be varied by the developer of a new or expanded Manufactured Home Park in any manner that will reduce Lot density, provide additional amenities or exceed the minimum standards in demonstrable fashion satisfactory to the Town of Leicester.
- B. MANUFACTURED HOMES–DOUBLE WIDES - The following shall apply in addition to all other regulations of the Town with respect to Manufactured Homes and Double Wide Homes:
 1. Excepting for Agricultural and Farming Operations or within Manufactured Home parks, no Manufactured Home or Double Wide shall be placed on a private Lot and occupied outside except when such Manufactured Home or Double Wide is situated upon a full frost depth foundation with block skirting.
 2. Any pre-existing Manufactured Home or Double Wide which is so situated as not to conform to the terms of this Section shall not be replaced on its site by any other Manufactured Home or Double Wide unless the same can be replaced in such a way as to otherwise be in compliance with this Code.

C. MANUFACTURED HOME PARKS.

1. General Regulations.

- a. Manufactured Home Parks may be maintained, expanded or created within the Town of Leicester within a Business District (B) or and Agricultural District (A), subject to obtaining a Special Use Permit. The expansion of pre-existing Manufactured Home Parks shall require demonstration that all of the supplemental regulations and requirements of this Section will be met or exceeded.
- b. It is intended that this Section shall apply only to new Manufactured Home Parks containing ten (10) or more Manufactured Homes or pre-existing Manufactured Home Parks that wish to expand in size. This Section is further intended to supplement existing New York State and Federal rules or regulations that govern Manufactured Home Parks and/or Manufactured Homes pertaining to standards pertinent to Manufactured Homes, including but not limited to their construction, placement and fire rating.
- c. New Manufactured Home Parks containing fewer than ten (10) Manufactured Homes upon a single Lot are not permitted in any zoning district within the Town of Leicester.
- d. All Double Wide Manufactured Homes and preexisting Single-Wide replacements installed and occupied pursuant to this Section shall conform to the New York State Uniform Fire Prevention and Building Code.
- e. All Double Wide Manufactured Homes and single-wide Manufactured Home replacements must be with a full frost depth foundation and block skirting prior to the issuance of a Certificate of Occupancy.
- f. New Manufactured Home Parks shall be served by public water and sanitary sewers, or a professionally engineered private wastewater treatment system that complies with all requirements of the Livingston County Health Department.
- g. New Mobile Homes or Single Wide trailers are not permitted on any private lot within any zoning district.

2. Procedure.

- a. The proponent of any prospective Manufactured Home Park expansion or new Manufactured Home Park development must first obtain a Special Use Permit from the Zoning Board of Appeals, which said Special Use Permit will be subject to Site Plan review and approval by the Planning Board. An applicant for a new Manufactured Home Park or an expansion to a pre-existing Manufactured Home Park

shall submit to the Planning Board for its review and approval a professionally prepared (by an engineer or surveyor licensed by the State of New York Department of Education) instrument survey map and Site Plan which shall depict the location of the utilities, amenities, Roads, improvements and Manufactured Home sites or Lots to be situate thereon, along with any other information deemed necessary or desirable by the Code Enforcement Officer or the Planning Board.

- b. Should the requirements of this Section exceed any New York State or Livingston County requirements, it is intended that this Section shall control.

3. Lot Requirements.

- a. The minimum Lot size of a new Manufactured Home Park shall not be less than 50 acres. Expansions of existing Manufactured Home Parks upon contiguous lands shall not result in a total area of less than 20 acres. Any Manufactured Home Park created after the date this Code is adopted must include or comprise a minimum of 10 Manufactured Homes in order to be classified as a Manufactured Home Park. Any extension of a pre-existing Manufactured Home Park shall be governed by this Section.
- b. Any new or expanded Manufactured Home Park shall front upon a primary or collector Road. A minimum required frontage of 400 feet thereon shall be required for any new Manufactured Home Park. The expansion of a pre-existing Manufactured Home Park shall meet the same minimum frontage requirement if said expansion is accomplished throughout the purchase of new land for the expansion from one or more parties controlling adjacent frontage or if the Owner of said Park controls or owns said frontage.
- c. A front setback of at least 300 feet from the center line of the fronting public Road shall be maintained, such that the nearest Structure or Manufactured Home lot of said Park shall not be nearer to the center line of said Road than 300 feet. Within the setback area shall be a landscaped buffer area, which shall contain trees and bushes and plantings of substantial size and number to be determined at the discretion of the Planning Board. If not otherwise prohibited because of drainage or like difficulties, the developer may also make use of swales and earth bulwarks for screening purposes. The buffer area shall be planted in grass or low ground cover and mowed or maintained by the Manufactured Home Park owner at all times to maintain a tidy and presentable appearance.
- d. A setback of at least 75 feet from any adjacent Lot Line shall be maintained.

- e. Any new or expanded Manufactured Home Park shall be located and laid out so that no Manufactured Home shall be closer than 500 feet to any existing single-family or two-family dwelling.
- f. All interior Roads within a Manufactured Home Park shall be improved to the construction standards for minor streets set forth in Article IV of the Subdivision Law of the Town of Leicester.

SECTION 711 - NON-CONFORMING USES, BUILDINGS AND LOTS.

A. INTENT – It is the intent of these regulations to permit Non-Conforming Uses to continue until they are removed or abandoned, but not to encourage their survival.

B. STANDARDS.

1. The lawful Use of a Lot or Buildings existing on the date of adoption of this Code may be continued although such Use or Building does not conform to the regulations specified in this Code. However, the following provisions shall apply to all such Non-Conforming Uses:
 - a. No Non-Conforming Lot shall be further reduced in size.
 - b. No Non-Conforming Building shall be enlarged, extended or increased unless such enlargement would tend to reduce the degree of non-conformity.
 - c. No Non-Conforming Use may be expanded except by a grant of a variance by the Zoning Board of Appeals.
2. Discontinuance. In any zoning district, whenever a Non-Conforming Use of a Lot, premises, Building or Structure, or any part or portion thereof, has been discontinued for a period of one (1) year, such Non-Conforming Use shall not be reestablished, and all future Uses shall be in conformity with the provisions of this Code. Such discontinuance of the active and continuous operation of such Non-Conforming Use, or a part or portion thereof, for such period of one (1) year is hereby construed and considered to be an abandonment of such Non-Conforming Use regardless of any reservation of intent not to abandon the same or of intent to resume active operations. Abandonment may be evidenced by removal or deterioration of Buildings, Structures, machinery, equipment or other evidence that such Non-Conforming Use is no longer taking place.
3. Any Non-Conforming Building damaged by fire or other natural causes to the extent of more than 50% of its assessed value shall be repaired or rebuilt to be in full compliance with this Code and any other relevant regulations, within one (1) year of said destruction.
4. Subject to any limitations imposed by New York State Agriculture and Markets Law Article 25-AA §305-a, Non-Conforming Manufactured Homes may only be replaced

with Manufactured Homes that conform to current regulations for the district in which they are placed.

5. Changes. Once changed to a conforming Use, no Building or Lot shall be permitted to revert to a Non-Conforming Use.
6. Non-Conforming Lots. A residential Lot existing at the time of the passage of this Code which is less than the required area or width or cannot meet the required front, side or rear setbacks for any Residential Use within its zoning district may be used for residential purposes, provided that the setbacks are equal to at least 60% of the required minimum.

SECTION 712 - OFF STREET PARKING AND LOADING REGULATIONS.

- A. INTENT. The purpose of this Section is to prevent or alleviate congestion on public Roads and to promote the public safety and welfare by establishing standards for the provision of off-street parking and loading spaces.
- B. APPLICABILITY. In all zoning districts, every industrial, business, institutional, recreational, residential or other Use shall provide, at the time of any change of Use or when any Building or Structure is erected, enlarged or increased in capacity, off-street parking for motor vehicles in accordance with the requirements of this and other applicable Sections of this Code, especially Site Plan approval.
- C. OFF-STREET PARKING AND LOADING STANDARDS.

The listed parking standards reflect reasonable standards for most Uses in most locations. The Town of Leicester governing board, in adopting these standards, is providing guidance to future developers, tenants and residents of Uses requiring off-street parking and loading. From an environmental and cost perspective, it is always desirable to construct the least number of parking spaces to adequately accommodate a particular Use. The following general requirements apply to all off-street parking.

1. Applicants are encouraged to provide evidence of lessor parking and loading demand, if appropriate.
2. The Planning Board, at its discretion, may require less off-street parking or loading if warranted based on the information presented. In any case where less off-street parking is required, the Planning Board reserves the right to require the set-aside of additional open space sufficient to accommodate the amount of off-street parking which would ordinarily be required, should the need for additional parking be required in the future.
3. The Planning Board also reserves the right to request additional information, such as but not limited to expected number of employees, students, expected attendance or expected deliveries, relevant to judging the adequacy of listed parking and loading standards. Such

information may result in application of off-street parking standards higher than those listed.

4. For Uses not listed, the required number of off-street parking or loading spaces shall be determined by the Planning Board based on similarity to listed Uses and information provided by the applicant.
5. In all cases, provided off-street parking and loading should be sufficient to prevent frequent on-street parking outside designated on-street parking areas by users or employees or the loading and unloading of passengers or materials from the public Right-Of-Way in such a manner that is disruptive to traffic.
6. In addition to the off-street parking required, based on the following standards, one appropriately sized parking space shall be available for each commercial vehicle used in any business conducted on or from the premises.
7. The Planning Board reserves the right to require off-street parking spaces suitable for vehicles with boats or trailers in tow.
8. The parking of one tractor without an attached trailer which is owned by or leased to the occupant of a Dwelling is allowed, subject to the availability of an off-street parking space which meets all the requirements of this Section.

D. REQUIRED PARKING SPACES.

1. Off-street parking spaces shall be provided as follows:
 - a. Residential.
 - Single-Family or Two-Family Dwellings: Two (2) per Dwelling Unit.
 - Multiple-Family Dwellings, Apartments: Two (2) per Dwelling Unit.
 - Hotel, Motel, Bed and Breakfast or Tourist Home: One (1) for each guest accommodation, plus one additional space per two employees.
 - b. Business/Commercial.
 - Professional Office or Home Occupation: Four (4) for each person engaged in the Professional Office or Home Occupation.
 - c. Club or lodge.

- Spaces to meet the combined requirements of the Uses being conducted, such as Restaurant, auditorium, etc.

c. Institutions.

- Nursing home, hospice care home: One (1) per three (3) beds for patients, residents, plus one (1) per each employee and each staff doctor on the largest work shift.
- Medical or dental clinic: Three for each doctor or dentist, one for every two employees on site.
- Places of public assembly: One (1) per three (3) seats.

d. Business amusements.

- Auditorium, arena or theater: One (1) per four (4) seats or eight (8) feet of bench length.
- Bowling alley: Five (5) per lane.

e. Business.

- Retail use, 1,500 square feet Gross Floor Area of less: one (1) per 200 square feet of Gross Floor Area.
- Motor Vehicle Service Station: one (1) for every two (2) gas pumps and three (3) for each service bay.
- Supermarket, Retail Store, grocery store or Gas Station/Convenience Store: One (1) per 75 square feet of Gross Floor Area, but not fewer than three (3).
- Service or repair shop; Retail Store and outlet selling furniture, automobiles or other bulky merchandise, where the operator can show that bulky merchandise occupies the major area of the Building: One (1) per 400 square feet Gross Floor Area, plus one (1) per employee on the largest shift.
- Plant Nurseries: one (1) per 200 square feet of Gross Floor Area of inside sales or display, plus one (1) per employee on the largest shift.
- Office: one (1) per 200 square feet of Gross Floor Area, plus one (1) for each two (2) employees.

- Bank: one (1) per 200 square feet of Gross Floor Area, plus one (1) for each two (2) employees plus five (5) stacking spaces for drive-in teller bay and two (2) exiting stacking spaces, provided that it does not interfere with other required off-street parking.
 - Restaurant: one (1) for every four (4) persons of maximum capacity or one (1) per table, plus one (1) per employee on the largest shift.
 - Fast-food Restaurant: one (1) per 50 square feet of Gross Floor Area, plus one (1) per employee on the largest shift.
 - Bar/Tavern or nightclub: one (1) per 50 square feet of Gross Floor Area, plus one (1) per employee on the largest shift.
 - Mortuary, Funeral Home: at least 30 for two parlors, with 10 additional for each parlor greater than two (2).
 - Shopping centers: Four (4) per 1,000square feet of gross leasable area for centers having a gross leasable area of 25,000 to 400,000 square feet. For centers having a gross leasable area greater than 400,000 square feet, 4.5 per 1,000 square feet of gross leasable area.
 - Industrial:
 - Mini-warehouse; one (1) per 20 storage cubicles.
 - Warehouse: one (1) per 4,000 square feet of Gross Floor Area, plus one (1) per employee on the largest shift.
 - Industrial Uses: one (1) per employee on the largest shift, plus one (1) per company vehicle regularly stored on the premises.
 - Wholesale establishments: one (1) per employee, plus one (1) per 700 square feet of patron serving area.
2. The off-street parking requirements of two or more Uses, Buildings, Structures or Lots may be satisfied by the same parking or loading space, used jointly, provided that the total parking spaces in such group facilities shall not be less than the sum of the requirements for the various Uses computed separately. If the Uses, Buildings, Structures or Lots are

under separate ownership, the right to the joint use of the parking space must be evidenced by the deed, lease, contract or other appropriate written document to establish joint use.

E. DESIGN STANDARDS FOR OFF-STREET PARKING SPACES.

1. The size of a standard perpendicular off-street parking space shall be a minimum of ten (10) feet wide by twenty (20) feet long.
2. The design of all parking areas and/or lots shall be such to demonstrate a safe and efficient means of movement for both motor vehicles and pedestrians.
3. No off-street parking or automobile storage space shall be used or designed in such a manner that will obstruct or interfere with the free Use of any Road, alley, adjoining property loading space, access route, easements or Right-Of-Way.
4. Provision for parking spaces is to be included with the preliminary Site Plan for the construction of Buildings and other Structures. No Building Permit or other zoning permit shall be issued until the required Site Plans are approved by the Building Inspector and/or the Planning Board to show how the off-street parking and loading requirements are to be fulfilled.
5. The off-street parking requirements of two (2) or more Uses, Buildings, Structures or Lots may be satisfied by the same parking or loading space, used jointly, provided that the total parking spaces in such group facilities shall not be less than the sum of the requirements for the various Uses computed separately. If the Uses, Buildings, Structures or Lots are under separate ownership, the right to joint use of the parking space must be evidenced by the deed, lease, contract or other appropriate written document to establish the joint use.
6. Where parking spaces abut sidewalks, landscaped areas, lighting fixtures or Fences, appropriate car stops shall be installed to prevent encroachment on or damage to such features.
7. All required parking areas shall be independent of required emergency access lanes, loading areas and drive-in queuing or stacking lanes.
8. In general, no driveway to an off-street parking area shall be located closer than fifty (50) feet to the intersection of any two (2) Roads or within twenty (20) feet of any side Lot Line, provided that sufficient distance will always remain for all required radii for said driveway. The distance from the driveway to the intersection shall be measured by extending the curb line of the intersecting street until it intersects the curb line, extending if necessary, of the driveway in question.
9. Driveways shall be designed to provide for the safe and efficient movement of traffic between the Road and the site, to eliminate the potential for stacking of vehicles along the public Right-Of-Way and to minimize interference with pedestrians and vehicles using the site and the public Right-Of-Way.

10. Necessary passageways, driveways and loading areas (except where provided in connection with Single-Family Dwellings) shall be surfaced with a dustless, durable, all-weather pavement, clearly marked for car spaces, and shall be adequately drained, all subject to the approval of the Code Enforcement Officer.
11. All parking areas and appurtenant passageways and driveways serving commercial Uses shall be illuminated adequately during the hours between sunset and sunrise when the Use is in operation. All lighting must be Dark Sky Compliant. Adequate shielding shall be provided by commercial users to protect adjacent residential zones from the glare of such illumination and from that of vehicle headlights.
12. Off-street parking areas located in commercial zones and which provide parking for twenty (20) or more vehicles shall be provided with trees.
13. Fire lanes shall be established and maintained in the parking area at the front, side and rear of all Buildings and Structures on the Lot and properly painted and marked as such. Vehicular parking and standing is prohibited in a fire lane, except that a commercial enterprise may use the fire lane adjacent to it as a pickup station for its customer's use, provided that such activity does not cause a traffic hazard and the Building Inspector or Fire Marshal grants approval for such use of fire lanes.
14. Traffic lanes for the control and regulation of automobile, truck, bicycle or other vehicle and pedestrian flow in the parking area shall be established and maintained and properly delineated through the use of pavement markings, Signs or median strips.
15. Parking lines for parking spaces shall be established and maintained in the parking area and shall be properly painted and marked as such.
16. Parking spaces in the parking area shall be set aside and designated for handicapped persons and ramp facilities provided where required. Each handicapped parking space shall have a minimum accessible space created by an area 13 feet in width and 20 feet in length in a ninety-degree parking configuration.
17. All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. All water drainage systems used in connection with the premises must be kept clean and in proper working order.
18. The Owner and/or lessee of the property used for parking and/or loading shall maintain such area in good condition without holes and free from dust, trash and other debris.
19. All parking areas shall be provided with additional peripheral areas adequate for snow storage.

F. DESIGN STANDARDS FOR LOADING SPACES.

1. Required loading spaces shall be twelve (12) feet by thirty-five (35) feet, with a fourteen (14) foot height clearance. If tractor-trailer deliveries are expected, at least one loading space twelve (12) feet by fifty-five (55) feet shall be provided.
2. All required loading areas shall be independent of required emergency access lanes, parking areas and drive-in queuing lanes.
3. Adequate off-street loading space(s) shall be provided for any commercial, institutional or industrial Use which involves the receipt or distribution of goods.

SECTION 713 - PUBLIC UTILITIES.

- A. Public Utilities may be allowed within all zoning districts by issuance of a Special Use Permit.
 1. The Zoning Board of Appeals shall determine the following prior to approving a Special Use Permit:
 - a. The purposed installation in a specific location is necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular Use is located.
 - b. The design of any Building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the zoning district in which it is to be located.
 - c. Adequate landscaping will be provided to create a visual and sound Buffer between such facilities and adjacent property. A Buffer strip of ten feet (10) in width shall be provided around the perimeter of the Lot.
 - d. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground where practical. All new replacement service connections from distribution lines to consumers shall be placed underground where practical. All new and replacement points of necessary access, or transformers, shall be placed in secure structures at ground level where practical.
 - e. All major electrical transformed facilities or substations, if above ground, shall be secured by an outer and inner Fence, each ten (10) from each other at any point: also no transformer or associated switches shall be closer than one hundred (100) feet from any Lot Line.

SECTION 714 – SOLAR ENERGY SYSTEMS.

- A. AUTHORITY AND LEGISLATIVE INTENT.

1. The Town Board of the Town of Leicester recognizes that solar energy is a clean, readily available and renewable energy source. However, it is necessary to properly site and regulate Solar Energy Systems within the boundaries of the Town of Leicester to protect residential uses, Prime Farmland (as hereafter defined) and farm operations, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Leicester, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Leicester.
2. In addition, the Town Board believes it to be necessary to regulate and govern the proper and timely removal of Solar Energy Systems upon such systems becoming non-functional or when they are no longer being utilized.

B. DEFINITIONS. The following definitions shall apply to this Section:

APPLICANT - The person or entity submitting an application and seeking an approval under this Section; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Section, said term shall include any person acting as an applicant, owner or operator.

BUILDING-INTEGRATED SOLAR ENERGY SYSTEM - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

BUILDING_MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the side(s) or rear of a Building or other structure either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a Building.

GLARE – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM - Any Solar Energy System that is affixed to the ground either directly or by support structures or other mounting devices where such structure and mounting exists solely to support the Solar Energy System.

PRIME FARMLAND - Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses.

It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmland within the Town of Leicester is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of Leicester – Prime Farmland Soils Showing an Area of Environmental Importance."

ROOF-MOUNTED SOLAR ENERGY SYSTEM - A Solar Energy System mounted on the roof of any legally permitted Building or structure and wholly contained within the limits of the roof surface.

SOLAR PANEL - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR ENERGY EQUIPMENT - Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit that are used with Solar Panels to produce and distribute electricity.

SOLAR ENERGY SYSTEM - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

TYPE 1 SOLAR ENERGY SYSTEM – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a Building, single-family Dwelling, Multiple Dwelling, business or farm. Said system shall be considered an Accessory Use (as defined in Article 2.), designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public.

TYPE 2 SOLAR ENERGY SYSTEM – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

C. ZONING DISTRICTS WHERE ALLOWED. Subject to the provisions of this Section, Solar Energy Systems shall be allowed as follows:

1. Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
2. Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.

3. Roof-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - a. The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.
 - b. Height. Roof-Mounted Solar Energy Systems shall not exceed the maximum height restrictions within the zoning district in which they are located.
 - c. Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design standards:
 - (i) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
 - (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/ her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
 - (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (iv) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right of way.
 - d. Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the local zoning code or other land use regulations, excepting the requirement to obtain a building permit as required in paragraph C. 3. above
4. Type 1 Solar Energy Systems are allowed as Accessory Uses and/or structures in all zoning districts.
 - a. The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit based on specific application materials as may be supplied by the Town Building and Code Department.
 - b. Height. Type 1 Solar Energy Systems shall not exceed fifteen (15) feet at the highest point when oriented at maximum tilt.
 - c. Setbacks. Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Buildings within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - d. Coverage. Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for accessory Buildings or structures within

the zoning district in which it is located and in no event shall the combination of all accessory Buildings and structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum tilt.

- e. All Type 1 Solar Energy Systems located in Residential Districts (R) shall be installed in the side or rear yard.
 - f. All applications for Type 1 Solar Energy Systems for businesses or farms, to the extent permitted by law, shall be subject to Site Plan review as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.
 - g. Pursuant to 6 NYCRR 617.5, Type I Solar Energy Systems to be used on residential parcels shall be deemed to be Type II Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.
5. Type 2 Solar Energy Systems are permitted only in Agricultural Districts (A) and are subject to the requirements set forth in this Section, including Site Plan review as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town, and are allowed only after the issuance of a Special Use Permit pursuant to these provisions. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of Leicester Planning Board (for Site Plan) and the Town of Leicester Board of Appeals (for Special Use Permit) for their review and action, which can include approval, approval on conditions, or denial.
- a. Area where Type 2 Solar Energy Systems are not permissible. Notwithstanding the above, Type 2 Solar Energy Systems shall not be a permitted use within that portion of the Agricultural District (A) that is from the east side of the Genesee Valley Greenway to the Town boundary that runs along and south of the Genesee River as such area has been determined to be an area of environmental importance and of a unique character to the community due to its proximity to the Genesee River and being a part of the Genesee Valley. Said area is shown on “Exhibit 1,” which is styled “Town of Leicester – Prime Farmland Soils Showing an Area of Environmental Importance.”
 - b. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit the Site Plan application provided to the Planning Board, any information required by the Code Enforcement Officer and the following documents and information:

- (i) If the property of the proposed project is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements.
- (ii) Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.
- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, and inverters that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and property upkeep, such as mowing and trimming.
- (vi) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of Leicester Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
- (vii) Any such additional information as may be required by the Town's professional engineer or consultant, Town of Leicester Planning Board, Town of Leicester Board of Appeals, Town Attorney or Code Enforcement Officer.
- (viii) At its sole discretion, the Town of Leicester Planning Board and/or the Town of Leicester Zoning Board of Appeals may refer an application for a Type 2 Solar Energy System to one or more private consultants for review to assist such Board in properly fulfilling its duties. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town (through either Board) for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, either Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior

to final approval, either Board may require that additional monies be deposited with the Town before further review of the application will continue. A reviewing Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.

- (ix) Decommissioning Plan. To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the improvements are placed. The Decommissioning Plan shall run to the benefit of the Town of Leicester and be executed by the Applicant as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Livingston County Clerk. Such plan shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as irrevocable deed restrictions indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that all future owners of such properties will be obligated to comply with the Decommissioning Plan requirements if the Applicant or then owner of the Solar Energy System fails to do so.

The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- A. Prior to obtaining a building permit and as a condition to any Special Use Permit being issued, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Leicester at its discretion) for the removal of the Type 2 Solar Energy System, with the Town of Leicester as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Solar Energy System has been constructed, and no later than ten (10) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Leicester with written proof that the

required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.

- (x) If a Type 2 Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Agricultural Mitigation for Solar Energy Projects.

c. Special Use Permit and Site Plan Approval Standards.

- (i) Height. Type 2 Solar Energy Systems shall have a maximum height of no more than fifteen (15) feet.
- (ii) Setbacks. Type 2 Solar Energy Systems shall be sited to create a front setback of no less than 200 feet from public roadways and setbacks of 100 feet from all side and rear property lines. In addition, no Type 2 Solar Energy System shall be located closer than 300 feet from any residential structure located on another parcel.
- (iii) Lot/Parcel Size. Type 2 Solar Energy Systems shall be located on parcels with a minimum lot size of 25 acres.
- (iv) Lot/Parcel Coverage. Type 2 Solar Energy Systems are permitted to cover up to 80% of any lot or parcel that does not contain Prime Farmland. If a Type 2 Solar Energy System is to be constructed on a parcel or parcels that contain Prime Farmland, in no instance shall more than 10% of the Prime Farmland on any given lot be permitted to be used, developed or covered for purposes of Type 2 Solar Energy Systems. It is the intent of this restriction to protect the valuable resource and benefits of Prime Farmland and it is the express intention of the Town of Leicester that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems on Prime Farmland by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt.
- (v) Fencing and Screening. All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the system may be required to be further screened by landscaping to avoid adverse aesthetic impacts. The Planning Board shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residentially zoned areas or abut a public road.
- (vi) Number of Type 2 Solar Energy Systems allowed per lot. Only one Type 2 Solar Energy System shall be allowed per lot or parcel, regardless of lot size.

- (vii) Recent Subdivision of Lot/Parcel. In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of Leicester within the five (5) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent any owner of land from combining multiple parcels of land in order to permit siting of a larger Type 2 Solar Energy Systems than would have been otherwise allowable pursuant to these regulations.
- (viii) Vegetation and Habitat. Type 2 Solar Energy System owners/developers shall develop, implement and maintain native vegetation to the extent practicable pursuant to a vegetation management plan by providing native perennial vegetation and foraging habitat beneficial to game birds, songbirds and pollinators. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native plant species and seed mixes.
- (ix) Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel.
- (x) After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (xi) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (xii) Any application under this Section shall meet any substantive Site Plan requirements as may be provided for elsewhere in the Zoning Ordinance or as may be established by further action of the Town, or that in the judgment of the Leicester Town Planning Board, are applicable to the system being proposed.
- (xiii) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Solar Energy System.
- (xiv) Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Solar Energy System shall be deemed to be a Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act (6 NYCRR 617.4 (a) (1) and (2) specifically allow the Town to classify such actions in addition to the list established by such

statute) with The Leicester Planning Board and the Leicester Zoning Board of Appeals conducting a coordinated review.

- (xv) The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of Leicester or other federal or state regulatory agencies. The Leicester Town Planning Board and the Leicester Zoning Board of Appeals may impose conditions on its approval of any Site Plan or Special Use Permit under this Section to enforce the standards referred to in this Section or to discharge its obligations under the State Environmental Quality Review Act.
- (xvi) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twelve (12) months of obtaining a Building Permit as provided for above, or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (xvii) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Type 2 Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xviii) Inspections. Upon reasonable notice, the Town of Leicester Code Enforcement Officer, or his or her designee, may enter a lot or parcel upon which a Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Section or any approval given or permit issued pursuant to this Section. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of Leicester at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder, owner or operator and shall be reimbursed to the Town of Leicester within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of Leicester reserves the right to levy all such unreimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.

D. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of Leicester shall be permitted only as follows:

1. Any inconsistent provisions of the Code of the Town of Leicester which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
2. All Solar Energy Systems existing on the effective date of this Section shall be “grandfathered” and allowed to continue as they presently exist. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Section.
3. No Solar Energy System shall hereafter be used, erected, moved, reconstructed, changed or altered except in conformity with these regulations.
4. Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this Section shall be subject to the provisions of this Section.
5. This Section shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Zoning Ordinance of the Town of Leicester.
6. For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer’s badge, safety information and equipment specification information.
7. For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface.
8. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
9. Payment in Lieu of Tax Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - a. In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available and effective under Real Property Tax Law §487.

- b. In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.
 - c. The payment in lieu of tax agreement shall run to the benefit of the Town of Leicester and be executed by the Applicant/developer as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Livingston County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of Leicester to enforce such agreement as against the owner of the real property and the real property.
 - d. At its sole discretion, the Leicester Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.
 - e. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.
10. Community Benefit Agreement. The owners or developers and landowners of the property upon which a Type 2 Solar Energy Systems is to be developed shall be required to enter into a community benefit agreement with the Town for payment by the owners,

developers or landowners to the Town of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Type 2 Solar Energy System.

- a. At its sole discretion, the Leicester Town Board may refer an application for a Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required community benefit agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Should such deposit be depleted prior to final approval of the required community benefit agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the community benefit agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the community benefit agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants.
 - b. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a community benefit agreement has been executed by all parties.
11. Road Use Agreement. Prior to issuance of any building permit for a Type 2 Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Type 2 Solar Energy System. As a part of such Road Use Agreement, Applicant shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Leicester at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.
- a. In the event that any damage is done to any Town road as a result of the development of an Applicant's Type 2 Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.

- b. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Highway Superintendent, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
- c. The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
- d. No building permit may be issued for any approved Type 2 Solar Energy System until such time as a Road Use Agreement has been executed by all parties.

E. Abandonment and Decommissioning.

1. If the use of an approved Solar Energy System is discontinued, the permit holder, owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 90 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.
2. Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail, return receipt requested. Any appeal by the permit holder, owner or operator of the Code Enforcement Officer's determination of abandonment or inoperability shall be filed with the Town of Leicester Zoning Board of Appeals within thirty (30) days of the Code Enforcement Officer causing personal service or mailing certified mail his written determination upon the permit holder, owner or operator and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of 91 days from the date of determination of abandonment or inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire.
3. Removal. All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Leicester Zoning Board of Appeals or the Town Planning

Board respectively, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 90 days and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the responsibility of the permit holder, system owner of the Solar Energy System and/or the owner of the property on which such Solar Energy System is located. If the permit holder, system owner or owner of the property does not dismantle and remove said Solar Energy System as required, the Town Board may, after a hearing at which the permit holder or system owner and property owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

- a. Removal of all Type 2 Solar Energy Systems shall be in accordance with the Decommissioning Plan required by section C. 5. (b) (ix) above. In the event that permit holder, the then owner of the Type 2 Solar Energy System, or the property owner fails to remove all equipment, infrastructure or appurtenances thereto, the Town shall be permitted at its sole discretion to utilize the financial security bond (or other form of surety) provided for in the Decommissioning Plan or to exercise its right after notice as provided for above, to dismantle and remove said facility and levy all related expenses associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder is/was.

F. Revocation.

If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Leicester Zoning Board of Appeals holds a hearing on same as provided for herein.

G. Interpretation; conflict with other law.

In its interpretation and application, the provisions of this Section shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Section is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Section are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.

SECTION 715 - SIGN REGULATIONS.

- A. INTENT - The intent of these provisions is to promote and protect the public health, safety and welfare by regulating size, height, quantity, location, spacing, shape, scale, proportion,

lighting, motion, design and appearance of signage within the Town of Leicester. More specifically, the provisions of this Section are intended to accomplish the following:

1. Protect and enhance the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community.
2. Encourage commercial Signs and graphics to be designed so as to be functional and compatible with the aesthetic appearance of the Building on which they are located on and the surrounding neighborhoods.
3. Reduce the frequency and magnitude of hazards to motorists and pedestrians caused by Sign obstructions and distractions.
4. Preserve and create more attractive business and residential environments.
5. Conserve the value of Buildings and properties and preserve existing neighborhood character.

B. DEFINITIONS. In addition to the Definitions found in Section 201, the following definitions shall apply to this section:

A-FRAME SIGN –A portable Sign with two or more steeply angled sides not to exceed six square feet on each side.

ATTENTION–GETTING DEVICE – Any flag, streamer, spinner, light, balloon or similar device or ornamentation used for purposes of attracting attention for promotion.

AWNING AND/OR CANOPY - A roof-like protective cover over a door, entrance, window or outdoor service area that projects from the face of a Structure or Building and is constructed of durable materials, including but not limited to fabrics and or plastics.

AWNING AND/OR CANOPY SIGN – Any Sign that is a part of or which is attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a Canopy.

BANNER – Any Sign of lightweight fabric or similar material that is permanently mounted to a pole or Building by a permanent frame at one or more edges.

BANNER/TEMPORARY – Any Sign of lightweight fabric or similar material that is temporarily mounted to a pole or Building. Banner shall not exceed two square feet for each lineal foot of width of the Building or space.

BILLBOARD – A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises or and uses of premises wherein it is displayed or posted.

BUILDING DIRECTORY SIGN – A Sign listing the Tenants or occupants of a Building or group of Buildings and that may indicate their respective professions or business activities.

BUILDING FRONTAGE – The width of a Building facing a street or public parking lot: in the case of a corner lot, it may be either frontage at the option of the applicant. Where a mall exists, “Building Frontage” shall mean that portion of the Building perimeter facing a Road or designated parking area: in the case of two such perimeters, it may be either frontage at the option of the applicant.

BULLETIN BOARD – See “Changeable-Copy Sign”.

CHANGEABLE-COPY SIGN/TEMPORARY OR PORTABLE – A Sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the Sign. Such Sign is mounted on wheels or easily transported.

COPY – Characters, letters or illustrations that can be changed or rearranged on a Changeable-Copy Sign.

DIRECTIONAL SIGN – Any Sign limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way”, “entrance” and “exit”.

EXTERIOR ENTRANCE – A direct entrance from a public way to a habitable or tenantable space.

FASCIA SIGNS – See “Wall Sign”.

FLAG - Any fabric, Banner or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, political subdivision or other entity.

FREESTANDING SIGN – A Sign supported by one or more upright poles, columns or braces placed in or on the ground and not attached to any Building or Structure. Such Sign may have permanent or Changeable Copy.

GRAPHIC SIGN - A Sign which is an integral part of a building facade. The Sign is painted directly on, carved in or otherwise permanently embedded in the facade.

GROUND SIGN – See “Freestanding Sign.”

HANGING SIGN – See “Projecting Sign.”

HOLIDAY DECORATION SIGN – Temporary Signs, in the nature of decorations, clearly incidental to and customarily and commonly associated with any national, local or religious holiday.

ILLUMINATED (DIRECTLY) SIGN – A Sign designed to give forth artificial light directly from a source of light within such a Sign.

ILLUMINATED (INDIRECTLY) SIGN – A Sign illuminated with a light so shielded that no direct rays there from are visible elsewhere on the Lot where said illumination occurs.

LIGHT EMITTING DIODE (LED) SIGNS – These are also referred to as electronic billboards or message boards.

LOGO - Any picture, shape or drawing, with or without letters or words used to identify a product, service, business or organization.

MARQUEE - Any hood, Awning or permanent construction that projects from a wall of a Building or Structure, usually above an entrance.

MOBILE SIGNS – See “Portable Sign”.

NONCONFORMING SIGN - Any Sign that does not meet the requirements of this Article.

POLE SIGN - A Sign that is mounted on a Freestanding pole or other supports.

PORTABLE SIGN - A Sign, whether on its own trailer, wheels or otherwise designed to be mobile and not structurally attached to the ground, a Building, a Structure or another Sign.

PROJECTING SIGN - Any Sign other than a Wall Sign that is attached to and projects from the wall or face of a Building or Structure.

REFLECTIVE SURFACE – Any material or device which has the effect of intensifying reflected light, such as Scotchlite (trademark), Dayglo (trademark) or glass beads.

ROOF SIGN - A Sign mounted on the roof of a Building.

SANDWICH SIGN – See “A-Frame Sign”.

SEE-THROUGH LETTERED SIGNS – Letters on a Sign with a transparent background, such as lettering on a window.

SIGN – Any material, structure or device, or part thereof, composed of lettered or pictorial matter which is located out-of-doors on the exterior of any Building or Structure, or indoors as a Window Sign, displaying and advertisement announcement, notice or name, and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

SIGN, AREA - The area defined by the frame or edge of a Sign. Where there is no geometric frame or edge of the Sign, the area shall be defined by projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines said Sign.

SIGN PERMIT - No Sign shall be hereafter erected, placed or maintained at any place in the Town of Leicester except as provided by this Article and only after a permit therefore has been obtained in compliance with the provisions of this Article, unless stated otherwise.

TEMPORARY SIGN – Sign applicable to business and special events. No such Sign shall be displayed for more than 30 days each calendar year.

TEMPORARY YARD SIGN – Sign placed in the yard of a residence or on a vacant parcel, commercial or farm parcel for non-business purposes, not including a yard, garage or household sale.

TENANT – An occupant who temporarily holds or occupies land, a Building or other property owned by another.

TENANT IDENTIFICATION SIGN - A Sign designed or intended to identify a tenant, occupant or establishment.

VEHICLE SIGN – Signs displayed on licensed and registered motor vehicles which are used in conjunction with a business.

WALL SIGN – A Sign attached to and erected parallel to the face of a Building and supported throughout its length by such Building. Such sign may have permanent or Changeable Copy.

WINDOW AREA - The total area of any single window pane or a series of window panes which are separated by mullions.

WINDOW SIGN - A Sign visible from a sidewalk, Road or other public place, painted or affixed on glass or other window material or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

WINDOW SIGN, TEMPORARY - A Window Sign not permanently affixed that does not identify the tenant, occupant or establishment and is limited to a maximum use of 120 days.

ZONING DISTRICT - The classification of lands as established in this Code.

C. NONCONFORMING SIGNS; APPLICABILITY.

After the adoption of this Code, the use of all Non-Conforming Signs shall cease (or said Signs shall be brought into compliance with the regulations contained in this section) at the time when there is any one or more of the following:

1. A change in ownership.
2. A change in Use.

3. Failure to maintain Signs.
4. Creation of a hazard or disturbance to the health, safety and welfare of the general public as determined by the Code Enforcement Officer.

B. For the purpose of these regulations, the term “Sign” does not include:

1. Written notifications erected and maintained pursuant to and in discharge of any government function, including state or federal historic markers, or required by any law, ordinance or governmental regulation.
2. Repainting, cleaning and other normal maintenance and repair of a Sign or Sign structure, unless a structural change is made or if the repair is in violation of this Section.
3. Memorial tablets or Signs and locally designated historic markers not exceeding two square feet in area.
4. Flags, emblems or insignias of the United States, the State of New York, town, village or counties, other countries and states, The United Nations or similar organizations which this nation is a member.
5. Signs for the direction or convenience of the public, including Signs which identify restrooms or locations of public telephones or traffic control devices: however, the total area shall not exceed two (2) square feet.

C. GENERAL SIGN REGULATIONS - Signs are important components of the streetscape. However, Signs do more than communicate information. By quality of their design, they can either contribute to or diminish the character or appearance of Buildings or Structures as a whole. They can serve as attractive accents or they can clutter and detract from the character of an area. The purpose of these general requirements is to promote the visual cohesiveness of the area by encouraging Signs to be harmonious with the architecture of each Building or Structure and the character of the surrounding area.

1. No Sign shall be permitted in any Zoning District except in compliance with the provisions of these regulations.
2. No Sign shall be erected, altered, moved or used without first obtaining a Sign Permit where required, and Signs shall be used only for a Permitted Use, Specially Permitted Use or for a Non-Conforming Use which may lawfully continue in accordance with the terms of these regulations.
3. The Planning Board as part of Site Plan review or subdivision review, or the Code Enforcement Officer in reviewing Sign Permits not subject to such review, shall consider

the compatibility of the Sign's location, color(s), lettering, size and overall design with on-site and adjacent architecture and community character.

4. Illuminated Signs must be Dark Sky Compliant.
5. If any Sign consists of Banners, posters, pennants, ribbons, streamers, spinners, balloons, searchlights and other similar moving, fluttering or revolving, flashing, smoke-generating or visual signal generation or animated devices that creates an adverse impact to safe traffic movements or strings of lights used for the purpose of advertising, illumination or attracting attention, the Code Enforcement Officer will have the authority to have the offending sign or part thereof removed.
6. Pictorial designs, logos and trademarks shall be permitted, provided that they are incorporated in and made a part of a permitted Sign face, and the area thereof is included in calculating the total permitted Sign face area allowed under these regulations.
7. No application for approval of Signs or for a Sign Permit shall be processed or permitted unless written permission is granted from the property Owner.
8. No Sign shall project across or over a Lot Line or lease line, nor be in a public Right-Of-Way.
9. All Signs shall comply with applicable provisions of the State of New York Uniform Fire Prevention and Building Code.
10. Roof Signs shall not exceed eighteen (18) square feet in area and no more than half of the width of the Building or Structure. For Buildings or Structures with multilevel roofs, Signs are permitted only on the lowest roof and shall not exceed ten (10) feet in height from the mounting point on the roof.
11. Maintenance of all Signs:
 - a. All Signs and components thereof, including supports, braces and anchors, shall be kept in a good state of repair.
 - b. If a message portion of a Sign is removed or a business or other activity is no longer operating, it shall be the property Owner's responsibility to assure that the abandoned Sign is promptly removed or properly covered to the satisfaction of the Code Enforcement Officer.
12. Every Principal Building or Structure shall have Road identification numbers.
13. Billboards are prohibited in all Zoning Districts.

14. Signs containing luminous material, sequin-studded letters or lettering with fluorescent paint are prohibited.
15. No Sign shall be erected or allowed to exist so as to constitute a traffic hazard. No Sign or other advertising structure as regulated by any of the provisions of this Section shall be erected at the intersection of any Roads in such a manner as to obstruct free and clear vision; or at any location where, by reason or position, shape, or color it may interfere with, obstruct the view of or be confused with any authorized traffic Sign, signal or device or makes use of words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.

D. SPECIFIC SIGN REGULATIONS.

1. EXEMPT SIGNS – Subject to specific limitations as may be stated hereafter, the following Signs are allowed in any appropriate Zoning District and do not require a Sign Permit:
 - a. Historical markers, tablets and statues, memorial signs and plaques; names of Buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or not for profit organizations; not exceeding six (6) square feet.
 - b. Flags and insignia of any government.
 - c. On-premises directional Signs for the convenience of the general public parking areas, fire zones, entrances and exits and similar Signs internally illuminated or non-illuminated, not exceeding four (4) square feet per face and six (6) feet in height. Business names and advertising messages shall not be allowed as part of such Signs.
 - d. Signs announcing no trespassing, private driveway and Signs controlling the fishing or hunting on the premises, provided that the area of any one side of any such Sign shall not exceed two (2) square feet per face.
 - e. One on-premises Sign, either Freestanding or attached, in connection with any residential Building in any Zoning District, for permitted Professional Office, not exceeding four (4) square feet and set back at least ten (10) feet from the Lot Line. Such Sign shall state name and vocation only. Illumination shall not produce a direct glare beyond the limits of the Lot Line.
 - f. Number and name plates identifying residents, attached to a Building and not exceeding two (2) square feet in area on each side.
 - g. Lawn Signs identifying residents, not exceeding two (2) square feet in area.

- h. Private owner merchandise sale Signs for garage sales and auctions, not exceeding four (4) square feet for a period not exceeding four (4) days within a given month.
- i. Temporary non- illuminated “For Sale”, “For Rent”, real estate Signs and Signs of a similar nature, concerning the premises upon which the Sign is located. In a Residential District (R), one Sign not exceeding four (4) square feet per side. In a Commercial or Industrial District, one Sign not exceeding fifty (50) feet square feet and set back at least fifteen (15) feet from all Lot Lines. All such Signs shall be removed within three (3) days after the sale, lease or rental of the premises.
- j. Temporary Yard Signs shall not exceed four (4) square feet per side and shall be displayed for more than 30 days each calendar year.
- k. Temporary, non- illuminated window Signs and posters providing that the following standards are complied with:
 - See-Through Lettered Window Signs must not cover more than 80% of the total window area.
 - An opaque Sign may not cover more than 20% of the total window area.
 - In the case of a door, a Window Sign may not cover more than 20% of the total window area.
- l. Credit card advertisements or trade association emblems which are displayed together in an area which does not exceed one (1) square foot may be displayed. Such Signs shall be displayed flat on window or door surfaces. The purpose of these Signs shall be solely to offer a service and not to advertise the business.
- m. Holiday decorations, including lighting.
- n. Temporary Signs/Banners advertising and/or providing directions to meetings, shows, temporary exhibits, or events and sponsored by a not-for-profit organization. These Signs may be erected subject to the following requirements:
 - Permission is granted by a property Owner, including state, county, town, village, utility companies and businesses in writing.
 - Banners shall not exceed thirty (30) inches in height and forty (40) feet in length.
 - Signs shall not be posted earlier than four (4) weeks before the occurrence of the exhibit, show or event and shall be removed within one (1) week after the exhibit, show or event.

- o. One (1) Sign, not exceeding six (6) square feet in the Residential Districts (R) or four (4) square feet in the Business District, listing the architect, engineer, contractor and/or Owner, on the premises where construction, renovation or repair is in progress.
- p. Signs required by Federal, State, County or Village regulations (i.e. NYS registered motor vehicle shop and NYS inspection stations.).
- q. One Sign which may be a Copy Change Sign is permitted on the premises of a religious or not-for-profit organization. Such Sign shall not exceed twelve (12) square feet in area and shall not be erected or displayed closer than ten (10) feet to any Lot Line. There shall not be more than one Bulletin Board per Lot, except that on a corner Lot two (2) Signs, one facing each Road shall be permitted, however only one electronic (LED) Sign is permitted.

E. SIGNS REQUIRING PERMIT. The following Signs require a Sign Permit:

1. Home Occupation Sign.

- a. One (1) Home Occupation Sign shall be permitted for an approved Home Occupation. Such Sign shall be no larger than ten (10) square feet in Sign Area, shall not be closer than ten (10) feet from any Lot Line; and, if a Ground Sign, shall not exceed four (4) feet in height above the natural grade on which the Sign is located. The Sign may contain only the name, products sold and/or name of the business and/or occupation of the resident and no more than one (1) Sign shall be allowed for each such business or commercial activity conducted on the Lot.

2. Development Signs.

- a. Development Signs shall be permitted at the main entrances of a development or subdivision of real property provided that such subdivision shall contain at least five subdivision lots. A development Sign shall be limited in height to not more than six (6) feet above the natural grade on which the Sign is located and shall be limited to sixteen (16) square feet in area. All development Signs shall be Freestanding and composed of durable materials and shall be complimentary in design to the development or the surrounding area. Development Signs shall be subject to the criteria of this law and additional standards required by the Planning Board through the subdivision process.
- b. If proposed for location in the public Road Right-Of-Way, permanent provisions for Sign maintenance are required. Generally such Signs are only allowed if part of a subdivision with a homeowners association. Alternative long term maintenance agreements must be acceptable to the Planning Board.

- c. If proposed for location on private property outside the public Road Right-Of Way, the Owner of the property on which the Sign is located shall be responsible for maintenance of the Sign. A note to this effect shall be shown on the subdivision plan.
 - d. Temporary development Signs may be erected in suitable locations within the public Road Right-Of-Way or on an adjacent Lot. Such Signs shall be removed by the Owner of the subdivision or applicant when the last Lot is sold or upon failure to maintain the Sign.
 - e. Message Signs. A message Sign shall not exceed six (6) square feet in area, shall not be any closer than ten (10) feet from any Lot Line and shall not project more than four (4) feet in height above the natural grade on which the Sign is located.
 - f. Awnings and/or Canopy Signs. Awnings and/or canopy Signs are movable or fixed ornamental roof-like structures extended from the face of a Building or Structure and constructed of durable materials, including fabrics, which may contain their own illumination and may display lettering or other business insignia. No part of any Awning or Canopy Sign shall:
 - Project more than eight (8) feet or two thirds the width of the sidewalk from the Building or Structure to which it is attached.
 - Extend above the height of the second floor window sill.
 - Extend into any side or rear setback areas.
 - Be any lower than eight (8) feet above the ground elevation of the wall face from the Building or Structure to which it is attached.
 - g. Prior to the issuance of a Sign Permit, the applicant shall furnish to the Code Enforcement Officer all plans and specifications for the proposed installation. The applicant may be referred to the Planning Board prior to a Sign Permit being issued to consider the appropriate relationship between the size, design and shape of the Awning and/or Canopy Sign and of the Building or Structure to which it will be attached, as well as placement of the Awnings and/or Canopies on the Building or Structure.
3. LED signs. The signal generation for the Sign must not create an adverse impact to traffic movement.
4. Portable or Temporary Changeable-Copy Signs. Portable or Temporary Changeable-Copy Signs require the issuance of a Special Use Permit carrying special restrictions from the Planning Board.

F. PERMITTED SIGNS IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

1. BUSINESS IDENTIFICATION SIGNS.

a. Wall signs.

- One (1) wall Sign not to exceed two (2) square feet for each linear foot of width of the front of the wall of the Building or Structure, or portion of the Building or Structure occupied by the business, or a maximum of 100 square feet, whichever is less.
- For multiple-story Buildings, Wall Signs shall only be permitted on the ground floor.
- The Sign shall identify the Owner or enterprise conducting the business, the business engaged in upon the premises or products or services sold, or any combination of these.
- Where a Building has frontage on more than one Road or public highway, one Wall Sign is permitted for each Road frontage.
- Building directory Sign for a multiple-use structure. One building directory Sign indicating the name of the occupants of the Building and the Building number in order to direct persons to their proper destination once they are on site shall be permitted. Signs are to be no larger than sixteen (16) square feet in area on each side, including the nameplates of all the Tenants or Uses and shall project not more than six (6) feet in height above the natural grade on which the Sign is located. The proposed Sign's construction shall complement the architectural style and materials of the Building it will serve. The proposed Sign shall be subject to Planning Board review through the Site Plan approval process. In determining the design, location and hours of illumination, the Board shall be guided by other pertinent Sections of these Regulations.

b. One Projecting Sign, provided that:

- Such Sign shall not exceed ten (10) square feet in area and shall not project more than four (4) feet from the wall or surface to which they are mounted.
- Such Sign shall be at least eight (8) feet to the bottom of the Sign above the ground level immediately below and shall not in any way interfere with normal pedestrian or vehicular traffic.
- There shall be no more than one Projecting Sign for each business or public entrance.

- The supporting structure shall not be included in calculation of the Sign area.
- c. One (1) on-premises Freestanding business Sign, provided that:
- It indicates the name of the business. Such Sign shall be no larger than twenty (20) square feet in area and shall not project more than ten (10) feet in height above the natural grade on which the Sign is located. The proposed Sign's construction shall complement the architectural style and materials of the Building it will serve. The proposed Sign shall be subject to Planning Board review through the Site Plan process. In determining the design, location and hours of illumination, The Board shall be guided by other pertinent Sections of these Regulations.
 - Only one such Sign shall be permitted on each property. In the case of a Lot occupied or intended to be occupied by multiple business enterprises (i.e., a neighborhood or community shopping center or plaza), one Freestanding Sign indicating the name of the development and the individual businesses shall be permitted.
 - Such a Sign may be double-faced.
 - All Freestanding Signs shall be located at least ten (10) feet from any Right-Of Way.
 - The location of the Sign is such so as not to interfere with visibility for vehicular/pedestrian traffic entering or leaving the Lot or traveling on any Road.
 - Signs for direction, provided that such Sign(s) do not exceed two (2) square feet in area. Such Signs may indicate the entrance and exit to the property and location of parking. Such Signs shall not project more than four (4) feet in height above the natural grade on which the Sign is located and shall be no closer than five (5) feet to any Lot Line.
- d. Temporary advertising and promotional Banners. Only one (1) such Sign shall be displayed by any business at one time.

G. APPLICATION FOR PERMIT; FEES; ISSUANCE.

1. APPLICATION FOR A SIGN PERMIT. Application for the Sign Permit shall be made in writing to the Code Enforcement Officer upon forms prescribed by and provided by the Code Enforcement Officer and shall contain the following information:
 - a. The name, address and telephone number of the applicant.

- b. Location of Buildings, Structures or land to which, or upon which, the Sign is to be erected.
 - c. A detailed drawing or blueprint showing a description of the construction details of the Sign and showing the colors, lettering and/or pictorial matter composing the Sign; position of lighting and other extraneous devices; and a location plan showing the position of the Sign on any Building or land and its position in relation to nearby Buildings, Structures or existing Signs and to any private or public Road.
 - d. Written consent of the Owner of the Building, Structure or land to which or upon which the Sign is to be erected in the event the applicant is not the Owner thereof.
 - e. A copy of any required or necessary electrical permit issued for said Sign or a copy of the application thereof.
- H. FEES. The fees to be paid for the erection of a Sign shall be established by the Leicester Town Board from time to time and shall be available at the Town Clerk Office.
- I. ISSUANCE OF A PERMIT. It shall be the duty of the Code Enforcement Officer, upon the filing of any application for a Sign Permit, to examine such plans, specifications and other plans submitted with the application and, if necessary, the Building, Structure or Lot upon which the proposed Sign is to be located. If it shall appear that the proposed Sign is in compliance with all the requirements of this Section and all other regulations of the Town of Leicester, the Code Enforcement Officer shall then, within ten (10) days, issue a Sign Permit for the erection of the proposed Sign. If the Sign authorized under such Sign Permit has not been completed within six (6) months from the date of issuance of such Sign Permit, the Sign Permit shall become null and void. If it shall appear that the proposed Sign is not in compliance with this Section, the Code Enforcement Officer shall deny the Sign Permit within ten (10) days of its receipt.

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

FILED
STATE RECORDS

MAY 15 2023

of YORK

DEPARTMENT OF STATE

Local Law No. 4 of the year 2023

A local law to repeal and replace the existing Article VI
(Insert Title)
of the Zoning Ordinance of the Town of York, to
regulate the approval and siting of Solar Energy
Systems.

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of YORK as follows:

"See attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**TOWN OF YORK
LOCAL LAW NO. 4 OF THE YEAR 2023**

A Local Law Entitled “Amending Article VI of the Zoning Ordinance of the Town of York.”

Be it enacted by the Town Board of the Town of York as follows:

Article VI of the Zoning Ordinance of the Town of York (as originated by Local Law # 2 of 2018 and later amended by Local Law #6 of 2019) shall be repealed and replaced in its entirety and the new Article VI shall read as follows:

618. Solar Energy Systems

A. Authority and Legislative Intent. The Town Board of the Town of York states the following as its findings and legislative intent:

- (1) This Local Law is adopted pursuant to New York State Town Law §§261, 263 and 264, which authorize the Town of York to adopt zoning provisions that advance and protect the health, safety, and welfare of the community.
- (2) The Town Board of the Town of York recognizes that solar energy is a clean, readily available and renewable energy source and the Town of York intends to accommodate the use of solar energy systems.
- (3) However, the Town Board finds it is necessary to properly site and regulate solar energy systems within the boundaries of the Town of York to protect residential uses, Prime Farmland, Farmland of Statewide Importance, business areas and other land uses, to preserve the natural resources, overall beauty, nature and character of the Town of York, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of York.
- (4) The previously adopted Article VI (as originated by Local Law # 2 of 2018 and later amended by Local Law #6 of 2019) has become insufficient to adequately address the many new aspects of Solar Energy System (as hereinafter defined) development that have arisen since its original adoption. Accordingly, the Town Board finds that the adoption of these updated and enhanced regulations is necessary to properly direct the location, size and construction of these Solar Energy Systems.

B. Definitions. The following definitions shall apply to this Section 618:

Applicant - The person or entity submitting an application and seeking an approval under this Article; the owner of a Solar Energy System or a proposed Solar Energy System project; the operator of Solar Energy System or a proposed Solar Energy System project; any person acting on behalf of an Applicant, Solar Energy System or proposed Solar Energy System. Whenever the term “applicant” or “owner” or “operator” are used in this Article, said term shall include any person acting as an applicant, owner or operator of such Solar Energy System.

Building-Integrated Solar Energy System - A combination of photovoltaic building components integrated into any building envelope system such as vertical facades, including glass and other facade material, semitransparent skylight systems, roofing materials, and shading over windows.

Building-Mounted Solar Energy System - Any Solar Energy System that is affixed to the side(s) or rear of a building or other structure either directly or by means of support structures or other mounting devices, intended to produce energy for onsite consumption or credit for onsite consumption for a building, Single-Family Dwelling, Two-Family Dwelling, Multi-Family Dwelling, business or farm, but not including those mounted to the roof or top surface of a building.

Building-Mounted Solar Energy System - Commercial - Any Solar Energy System that is affixed to the side(s) or rear of a building or other structure either directly or by means of support structures or other mounting devices, intended to produce energy for offsite sale to and consumption by one or more customers.

Decommissioning - The removal and disposal of all Solar Panels, Solar Energy Equipment, structures, equipment and accessories, including subsurface foundations and all other material, concrete, wiring, cabling, or debris, that were installed in connection with a Solar Energy System and the restoration of the parcel of land to the original state prior to construction on which the Solar Energy System is built to either of the following, at the landowner's (either the Initial Landowner or it's heirs, successors or assigns) sole option: (i) the condition such lands were in prior to the development, construction and operation of the Solar Energy System, including but not limited to restoration, regrading, and reseeding, or (ii) the condition designed by landowner (either the Initial Landowner or it's heirs, successors or assigns) and the Town. Details of the expected Decommissioning activities and costs are to be described in the Decommissioning Plan and Decommissioning Agreement as may be required pursuant to this Article.

Decommissioning Agreement - A written Agreement between Applicant, Initial Landowner and Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable. For purposes of this Article, the term “inoperable” shall mean that such

Solar Energy System is operating such that it produces less than 10% of the original nameplate capacity of the Solar Energy System at the time of original construction.

Farmland of Statewide Importance – Land designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of statewide importance for the production of food, feed, fiber, forage and oilseed crops as determined by the appropriate state agency or agencies. Generally, this land includes areas of soils that nearly meet the requirements for Prime Farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some areas may produce as high a yield as Prime Farmland if conditions are favorable. Farmland of statewide importance may include tracts of land that have been designated for agriculture by State law.

A map showing Farmland of Statewide Importance within the Town of York is available at the Town Clerk’s office and is made a part of these regulations as “Exhibit 1,” which is styled “Town of York – Prime Farmland and Farmland of Statewide Importance.”

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

Glare – The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

Ground-Mounted Solar Energy System - Any Solar Energy System that is affixed to the ground either directly or by support structures or other mounting devices where such structure and mounting exists solely to support the Solar Energy System.

Initial Land Owner – The record title owner to the real property upon which a Solar Energy Systems is constructed, at the time such Solar Energy System is initially approved.

Prime Farmland - Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to acceptable farming methods, including water management. In general, Prime Farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to

water and air. Prime Farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

A map showing Prime Farmland within the Town of York is available at the Town Clerk's office and is made a part of these regulations as "Exhibit 1," which is styled "Town of York – Prime Farmland Soils Showing an Area of Environmental Importance."

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

Roof-Mounted Solar Energy System - A Solar Energy System mounted on the roof of any legally permitted building or structure and wholly contained within the limits of the roof surface, intended to produce energy for onsite consumption or credit for onsite consumption for a building, Single-Family Dwelling, Two-Family Dwelling, Multi-Family Dwelling, business or farm.

Roof-Mounted Solar Energy System - Commercial - A Solar Energy System mounted on the roof of any legally permitted building or structure and wholly contained within the limits of the roof surface, intended to produce energy for offsite sale to and consumption by one or more customers.

Site Plan – The application materials, procedures and processes required by this Article VI and Article XI of the Zoning Ordinance of the Town of York.

Solar Panel - A photovoltaic device capable of collecting and converting solar energy into electrical energy.

Solar Energy Equipment - Electrical energy devices, material, hardware, inverters, or other electrical equipment and conduit, not to include any type of battery energy storage system or similar device, that are used with Solar Panels to produce and distribute electricity.

Solar Energy System - An electrical energy generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

Special Use Permit – The procedures and processes required by this Article VIII., §802. C. and Article IX., §905. D. of the Zoning Ordinance of the Town of York.

Tilt – The vertical angle, where 0° minimum tilt means the panel is laying flat, and 90° maximum tilt means that it is vertical.

Town – The Town of York, Livingston County, New York.

Type 1 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for onsite consumption or credit for onsite consumption for a building, Single-Family Dwelling, Two-Family Dwelling, Multi-Family Dwelling, business or farm. Said system shall be considered an Accessory Use (as defined in Article II., §201 and provided for in Article V., §508) and an Accessory Structure, designed and intended to generate electricity solely for use on the premises, potentially for multiple tenants, through a distribution system that is not available to the public. Such Type 1 Solar Energy Systems may consist of Solar Energy Systems located on multiple sites within the jurisdictional limits of the Town of York, owned by the same person, entity, farm or business, but in no instance shall the aggregate yield on the combined systems equal more than 150% of the electricity consumed by such person, entity, farm or business within the previous 12 months, nor shall the aggregate coverage of the combined Solar Panels and Solar Energy Equipment across all parcels exceed twenty-five (25) acres. Type 1 Solar Energy Systems can be developed, operated and maintained by a third-party by lease agreement or through a power purchase agreement.

Type 2 Solar Energy System – A Ground-Mounted Solar Energy System intended to produce energy for offsite sale to and consumption by one or more customers.

- C. Zoning districts where allowed. Subject to the provisions of this Article, Solar Energy Systems shall be allowed as follows:
- (1) Building Integrated Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - (2) Building-Mounted Solar Energy Systems are allowed in all zoning districts upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - (3) Rooftop-Mounted Solar Energy Systems are permitted in all zoning districts, subject to the following:
 - a. The placement, construction and major modification of Roof-Mounted Solar Energy Systems shall only be permitted upon issuance of a building permit based on special application materials supplied by the Town Building and Code Department.
 - b. Roof-Mounted Solar Energy System Design standards. Roof-Mounted Solar Energy System installations shall comply with the following design criteria:
 - (i) Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches

between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but shall not exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.

- (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
 - (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
 - (iv) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.
- c. Roof-Mounted Solar Energy Systems shall be exempt from Site Plan review under the Zoning Ordinance of the Town of York, but shall not be constructed without a building permit first being issued by the Town Building and Code Department.
- (4) Commercial Building-Mounted Solar Energy Systems are allowed in the following zoning districts: Agricultural District (A), Hamlet Commercial District (HC), Commercial District (C), Light Industrial District (LI), Industrial District (I) and Planned Development District (PD), subject to the requirements of Article IV., §409. Commercial Building-Mounted Solar Energy Systems are subject to the requirements set forth in this Article, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Article VIII., §802. C. and Article IX., §905. D. Applications for the installation of a Commercial Building-Mounted Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.
- a. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Planning Board (in addition to the Site Plan application), any information required by Article VIII., §804. B. and the following documents and information:
- (i) If the location of the proposed project is to be leased (either building facade or surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased

area(s) for the duration of the project, including any signed lease agreement, easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §618. C. (4) a. (ix) (A). below.

- (ii) Plans and drawings for the Commercial Building-Mounted Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, any non-building mounted improvements or infrastructure, any proposed clearing and grading of the lot(s) on which the structure housing a Commercial Building-Mounted Solar Energy System is situate, any anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Commercial Building-Mounted Solar Energy System, and utility lines (both above and below ground) on the site and adjacent to the site. The applicant shall also provide a structural analysis signed by a Professional Engineer, demonstrating the structural adequacy of the building upon which a Commercial Building-Mounted Solar Energy System is to be placed to support such system in a safe fashion.
- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing Buildings or Structures and uses on any parcel within 500 feet of the outer perimeter of the Commercial Building-Mounted Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters or other Solar Energy Equipment that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and upkeep of the property that houses such Commercial Building-Mounted Solar Energy System. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said plan shall demonstrate how the Applicant (or the

successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of York, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment.

- (vi) Clearing, grading, storm water and erosion control plan. If deemed desirable by the Planning Board or the Town's professional engineer or consultant, Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Commercial Building-Mounted Solar Energy System on the site.
- (vii) Parking and Truck Traffic. Applicant shall establish a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Commercial Building-Mounted Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.
- (viii) Any such additional information as may be required by the Town's professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.
- (ix) Decommissioning Plan. To ensure the proper removal of a Commercial Building-Mounted Solar Energy System after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. For purposes of this Article, the term "reasonably operable" shall mean that such Solar Energy System is operating such that it produces at least 10% of the original nameplate capacity of the Solar Energy System at the time of original construction. The Decommissioning Plan shall contain a written and visual record of the original site condition (prior to installation of any Solar Energy

Equipment) to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the Commercial Building-Mounted Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements. The plan shall demonstrate how the removal of all infrastructure of the Commercial Building-Mounted Solar Energy System and all Solar Energy Equipment shall be conducted to return the structure (s) and parcel housing such system to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

- (A). Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §618. E. of this Article. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its discretion) for the removal of the Commercial Building-Mounted Solar Energy System, with the Town of York as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Commercial Building-Mounted Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of York with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial

Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.

b. Special Use Permit and Site Plan Approval Standards.

- (i) **Height.** Commercial Building-Mounted Solar Energy Systems shall not be constructed in such a way that any portion of such system is higher than the highest point of the wall upon which it is attached.
- (ii) **Distance from Building.** Commercial Building-Mounted Solar Energy Systems shall not be constructed in such a way that any portion of the Solar Panels project more than 18 inches from the surface of the wall upon which it is attached.
- (iii) **Fencing and Screening.** All Solar Energy Equipment shall be securely enclosed or placed about the property so as to prevent unauthorized access. Warning signs with the owner's contact information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access.
- (iv) **Glare.** All Solar Panels shall have anti-reflective coatings(s).
- (v) **Number of Commercial Building-Mounted Solar Energy Systems allowed per Lot.** More than one Commercial Building-Mounted Solar Energy System may be permitted and allowed per Lot or parcel, regardless of Lot size.
- (vi) **Any Commercial Building-Mounted Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services and local fire chief.**
- (vii) **After completion of a Commercial Building-Mounted Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State stating that the Solar Energy System complies with all applicable codes**

and industry practices and has been constructed and is operating according to the design plans.

- (viii) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Commercial Building-Mounted Solar Energy System.
- (ix) Any application under this section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the Solar Energy System being proposed.
- (x) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Commercial Building-Mounted Solar Energy System.
- (xi) Prior to determination or issuance of any permit, all Commercial Building-Mounted Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617).
- (x) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Commercial Building-Mounted Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Commercial Building-Mounted Solar Energy System within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force and effect at law.
- (xi) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or Building Permit. After construction is complete, the permit holder of a Commercial Building-Mounted Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.

- (xii) **Inspections.** Upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Commercial Building-Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Commercial Building-Mounted Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a *determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer.* Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Commercial Building-Mounted Solar Energy System is located.
- (xiii) **Construction hours.** During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. No construction activities shall take place on Sunday or any Federal holiday.
- (xiv) Until Decommissioning has been fully completed pursuant to this Article, each year, by January 20th, the owner or operator of the Solar Energy System (or its agent) shall provide the Town Building and Zoning Department with a notarized statement disclosing and certifying the actual produced amount of solar energy for the preceding year and a calculation showing such production as a percentage of the original nameplate capacity of the Solar Energy System. Such information is intended to allow Town officials to confirm that the Solar Energy System is “reasonably operable” or “inoperable” as defined in this Article, and/or whether such systems is exceeding its nameplate capacity.

- (5) Commercial Roof-Mounted Solar Energy Systems are allowed in the following zoning districts: Agricultural District (A), Hamlet Commercial District (HC), Commercial District (C), Light Industrial District (LI), Industrial District (I) and Planned Development District (PD), subject to the requirements of Article IV., §409. Commercial Roof-Mounted Solar Energy Systems are subject to the requirements set forth in this Article, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Article VIII., §802. C. and Article IX., §905. D. Applications for the installation of a Commercial Roof-Mounted Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.
- a. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Planning Board (in addition to the Site Plan application), any information required by Article VIII., §804. B. and the following documents and information:
- (i) If the location of the proposed project is to be leased (either roof surface and/or real property), proof of legal consent between all parties, specifying the use(s) of the leased area(s) for the duration of the project, including any signed lease agreement, easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §618. C. (5) a. (ix) (A). below.
 - (ii) Plans and drawings for the Commercial Roof-Mounted Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, any non-building mounted improvements or infrastructure, any proposed clearing and grading of the lot(s) on which the structure housing a Commercial Roof-Mounted Solar Energy System is situate, any anticipated or possible storm water runoff or erosion disturbances resulting from the placement of the Commercial Roof-Mounted Solar Energy System, and utility lines (both above and below ground) on the site and adjacent to the site. The applicant shall also provide a structural analysis signed by a Professional Engineer, demonstrating the structural adequacy of the building and roof upon which a Commercial Roof-Mounted Solar Energy System is to be placed to support such system in a safe fashion.

- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 500 feet of the outer perimeter of the Commercial Roof-Mounted Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters or other Solar Energy Equipment that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Solar Energy System and upkeep of the property that houses such Commercial Roof-Mounted Solar Energy System. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of York, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment.
- (vi) Clearing, grading, storm water and erosion control plan. If deemed desirable by the Planning Board or the Town's professional engineer or consultant, Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Commercial Roof-Mounted Solar Energy System on the site.
- (vii) **Parking and Truck Traffic.** Applicant shall a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Commercial Roof-Mounted Solar Energy System shall show adequate staging areas during the construction process to ensure

that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.

- (viii) Any such additional information as may be required by the Town's professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.
- (ix) Decommissioning Plan. To ensure the proper removal of a Commercial Roof-Mounted Solar Energy System after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. For purposes of this Article, the term "reasonably operable" shall mean that such Solar Energy System is operating such that it produces at least 10% of the original nameplate capacity of the Solar Energy System at the time of original construction. The Decommissioning Plan shall contain a written and visual record of the original site condition (prior to installation of any Solar Energy Equipment) to facilitate complete remediation upon decommissioning. The Decommissioning Plan must specify that after the Commercial Roof-Mounted Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements. The plan shall demonstrate how the removal of all infrastructure of the Commercial Roof-Mounted Solar Energy System and all Solar Energy Equipment shall be conducted to return the structure (s) and parcel housing such system to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.
 - (A). Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §618. E. of this Article. Said Decommissioning Agreement

shall require the Applicant to provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its discretion) for the removal of the Commercial Roof-Mounted Solar Energy System, with York as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 110% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Commercial Roof-Mounted Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the Solar Energy System shall provide the Town of York with written proof that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.

b. Special Use Permit and Site Plan Approval Standards.

- (i) Height and Angle. Commercial Roof-Mounted Solar Energy Systems shall be constructed such that Solar Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof's surface and highest edge of the Solar Energy System at any point. Solar panels not facing the front yard can be mounted at any angle relative to the roof's surface, but no portion of the Solar Energy System shall exceed a maximum height of 18 inches from the surface of the roof to the highest edge of the Solar Energy System at any point.

- (ii) No part of a Roof-Mounted Solar Energy System shall extend above, beyond, or below the edge of the roof it is mounted to. Additionally, the Code Enforcement Officer may require, at his/her sole discretion, a minimum three (3) foot wide center walkway for safe access purposes.
- (iii) If feasible, Solar Energy Equipment shall be installed inside walls and attic spaces to reduce their visual impact.
- (iv) Glare. All Solar Panels shall have anti-reflective coatings(s).
- (v) If feasible, Solar Panels affixed to a flat roof shall be placed below the line of sight from a public right-of-way.
- (vi) Fencing and Screening. All Solar Energy Equipment shall be securely enclosed or placed about the property so as to prevent unauthorized access. Warning signs with the owner's contact information shall be conspicuously placed and maintained to aid in preventing injury by unauthorized access.
- (vii) Number of Commercial Roof-Mounted Solar Energy Systems allowed per Lot. More than one Commercial Roof-Mounted Solar Energy System may be permitted and allowed per lot or parcel, regardless of lot size.
- (viii) Any Commercial Roof-Mounted Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services and local fire chief.
- (ix) After completion of a Commercial Roof-Mounted Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State stating that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (x) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Commercial Roof-Mounted Solar Energy System.
- (xi) Any application under this Section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town

Planning Board, are applicable to the Solar Energy System being proposed.

- (xii) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Commercial Roof-Mounted Solar Energy System.
- (xiii) Prior to determination or issuance of any permit, all Commercial Roof-Mounted Solar Energy System applications shall be subject to review pursuant to the New York State Environmental Quality Review Act (16 NYCRR 617).
- (xiv) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Commercial Roof-Mounted Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Commercial Roof-Mounted Solar Energy System within twenty-four (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law.
- (xv) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or building permit. After construction is complete, the permit holder of a Commercial Roof-Mounted Solar Energy System shall establish a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.
- (xvi) Inspections. Upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Commercial Roof-Mounted Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. Furthermore, a Commercial Roof-Mounted Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall

be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Commercial Roof-Mounted Solar Energy System is located.

- (xvii) Construction hours. During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. No construction activities shall take place on Sunday or any Federal holiday.
- (xvii) Until Decommissioning has been fully completed pursuant to this Article, each year, by January 20th, the owner or operator of the Solar Energy System (or its agent) shall provide the Town Building and Zoning Department with a notarized statement disclosing and certifying the actual produced amount of solar energy for the preceding year and a calculation showing such production as a percentage of the original nameplate capacity of the Solar Energy System. Such information is intended to allow Town officials to confirm that the Solar Energy System is “reasonably operable” or “inoperable as defined in this Article, and/or whether such systems is exceeding its nameplate capacity.

- (6) Type 1 Solar Energy Systems are allowed as accessory uses and/or structures in all zoning districts except Hamlet Residential (HR) and High Density Residential (HDR). Type 1 Solar Energy Systems which are to be located in a Planned Development District (PD) must comply with the requirements of Article IV., §409 before the same are permitted.
 - a. The placement, construction and major modification of Type 1 Solar Energy Systems shall only be permitted upon issuance of building permit based on special application materials supplied by the Town Building and Code Department.
 - b. Height. Type 1 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment to the ground

directly beneath it.

- c. **Setbacks.** Type 1 Solar Energy Systems setbacks shall be twice the standard setbacks for Accessory Buildings or Structures within the zoning district it is located, but in no event shall any such setback be less than twenty (20) feet.
 - d. **Coverage.** Type 1 Solar Energy Systems ground coverage shall not exceed the allowable total surface or area coverage for Accessory Buildings or structures within the zoning district in which it is located and in no event shall the combination of all Accessory Buildings and structures located on the premises exceed 20% coverage of the entire area of such parcel. For purposes of this provision, coverage shall be calculated based upon the total surface area of the Solar Panels at minimum Tilt.
 - e. **Glare.** All Solar Panels shall have anti-reflective coatings(s).
 - f. All Type 1 Solar Energy Systems located in Residential Districts (R) shall be installed in the side or rear yard.
 - g. All applications for Type 1 Solar Energy Systems for businesses (including Multi-Family Dwellings) or farms, to the extent permitted by law, shall be subject to Site Plan review pursuant to Article XI. Applications for Type 1 Solar Energy Systems for use on residential parcels may be subject to Site Plan review at the sole discretion of the Code Enforcement Officer.
 - h. Pursuant to 6 NYCRR 617.5, Type 1 Solar Energy Systems to be used on One- and Two-Family Dwelling parcels shall be deemed to be Type 2 Actions for purposes of review under the New York State Environmental Quality Review Act (16 NYCRR 617). All other Type 1 Solar Energy Systems shall be deemed to be Unlisted Actions pursuant to the New York State Environmental Quality Review Act.
- (7) **Type 2 Solar Energy Systems.** Excepting as restricted in Article VI., §618. C. (7) a. immediately below, Type 2 Solar Energy Systems are permitted in Agricultural Districts (A), Commercial Districts (C), Mixed Use Districts (MU), Light Industrial Districts (LI), Industrial Districts (I) and in Planned Development Districts (PD), subject to the requirements of Article IV., §409. Type 2 Solar Systems in all of the above zoning districts are subject to the requirements set forth in this Section, including Site Plan approval pursuant to Article XI, and are allowed only after the issuance of a Special Use Permit pursuant to Article VIII., §802. C. and Article IX., §905. D. Applications for the installation of a Type 2 Solar Energy System shall be reviewed by the Zoning Enforcement Officer and referred, with comments, to the Town of

York Planning Board (for Site Plan and Special Use Permit) for its review and action, which can include approval, approval on conditions, or denial.

a. Areas Where Type 2 Solar Energy Systems are Not Permitted.

- (i) Any property which is listed on either the New York State or National Register of Historic Places.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

- (ii) Any property located in the area that is bounded on the west by a line that runs parallel with and is 100 feet west of the west line of the Genesee Valley Greenway and is bounded on the east by the Genesee River, as such area is hereby deemed to be a scenic viewshed and which is a portion of the area that has previously been identified as a scenic viewshed pursuant to Article V., §514 C. (6) of the Zoning Ordinance.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

- (iii) Any lands that are classified or designated as Prime Farmland or Farmland of Statewide Importance. Prohibition of development of Type 2 Solar Energy Systems on Prime Farmland and Farmland of Statewide Importance is consistent with the Town of York Comprehensive Plan, specifically, Chapter 2 – Plan Objectives and Goals, section B. 5., Chapter 4 – Future Land Use Plans, section B. 1., Chapter 5 – Recommendations, section C. Farmland Protection and Support of Agricultural Industry and Chapter 6 –

Implementation, section C. Farmland Protection and Support of Agricultural Industry.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

The above map shall be subject to periodic update when the data illustrated therein (derived from the U.S. Department of Agriculture NRCS Soil Survey Geographic Database) is modified or changed from the original source data information.

- (iv) While not strictly prohibited, it is strongly discouraged that Type 2 Solar Energy Systems be placed on parcels that will require the removal of wooded areas or development on wetland areas.
- b. Special Use Permit Application Requirements. For a Special Use Permit application, the Applicant shall submit to the Planning Board (In addition to the Site Plan application and materials required by Article XI), Article VIII., §805. B. and the following documents and information:
- (i) If the property of the proposed Solar Energy System is to be leased, proof of legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements between the parties. Any lease agreement between the Applicant and an Initial Landowner shall conform to or be amended such that it conforms with the requirements for Applicant and Initial Landowner as set forth in the Decommissioning Agreement referenced in §618. C. (7) b. (xii) (A). below. Applicant shall be required to provide, as part of the application, any Lease Agreement, easements and other agreements between itself and Initial Landowner or any owner of property contiguous to the land upon which the Solar Energy System (or any component thereof, including access ways or utility lines) shall be constructed.
 - (ii) Plans and drawings for the Type 2 Solar Energy System signed by a Professional Engineer showing the proposed layout of the Solar Energy System along with providing a description of all components, existing vegetation, any proposed clearing and grading of the Lot(s) involved, any anticipated or possible storm water or erosion disturbances, and utility lines (both above and below ground) on the site and adjacent to the site.

- (iii) Submitted plans and drawings shall show all property lot lines and the location and dimensions of all existing buildings or structures and uses on any parcel within 750 feet of the outer perimeter fence line of the Type 2 Solar Energy System.
- (iv) Equipment specification sheets shall be provided for all Solar Panels, significant components, mounting systems, inverters and other Solar Energy Equipment that are to be installed.
- (v) A Property Operation and Maintenance Plan which describes all ongoing or periodic maintenance of the Type 2 Solar Energy System and property upkeep, such as routine maintenance, mowing and trimming, which shall also include the area under and around all panels and the rows in between panels such that the Solar Energy Systems appears orderly and neat at all times. The Plan shall also include details of anticipated use of pesticides, herbicides and other chemicals for vegetative abatement and/or maintenance. The Plan shall demonstrate that the use of any pesticide, herbicide or other chemical will be in compliance with all local, state and federal regulations and shall further demonstrate that alternatives to chemical treatments have been prioritized to the extent reasonably possible. Such Plan shall provide for biennial preventative maintenance site inspections that will include a representative from the owner or operator of the Solar Energy System and Code Enforcement Officer (or his/her designated representative). Additionally, the owner or operator shall provide the Code Enforcement Officer with reports of annual safety inspections of the Solar Energy System, as well as quarterly reports of inspection of the security systems relating to such Solar Energy Systems. Said Plan shall demonstrate how the Applicant (or the successor owner of the Solar Energy System) shall ensure proper removal and disposal of all Solar Panels and/or Solar Energy Equipment that becomes inoperable or is no longer being utilized and the same shall be disposed of outside the jurisdictional limits of the Town of York, unless there is a properly certified and/or licensed recycling facility within the Town that recycles Solar Panels and Solar Energy Equipment. Said Plan shall also obligate the Applicant (or the successor owner of the Solar Energy System) to provide the Town, not less than every other year (commencing the second year after the Solar Energy System is commercially operable), with test results from soil sampling collected and analyzed pursuant to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (or similar successor document of the Department of Agriculture and Markets) that are in effect as of the date of

sampling, to demonstrate that the soils upon which the Solar Energy System is constructed have not been contaminated in any fashion as a result of the Solar Energy System placed on the property. Such test results shall be compared to the pre-construction soil sample analysis referenced in paragraph (x) (Pre-Development Site Conditions) below.

- (vi) Clearing, grading, storm water and erosion control plan. Applicant shall submit an engineered Storm Water and Erosion Control Plan to the Town of York Engineer for its review and approval which shall demonstrate that post development runoff, storm drainage and erosion will not be negatively impacted by placement of the Type 2 Solar Energy System on the site.
- (vii) Parking and Truck Traffic. Applicant shall a designated parking area on the site of the Solar Energy System for employees of Applicant (or the successor owner of the Solar Energy System) to park when providing monitoring or maintenance of the Solar Energy System. Additionally, the Plans and Drawings for a Type 2 Solar Energy System shall show adequate staging areas during the construction process to ensure that roadways are not impacted by delivery of materials. The Plans and Drawings shall also show all areas in which stock-piling of materials and equipment will take place during construction. Applicant shall provide data on anticipated truck trips per day, including during peak material delivery periods, which shall also be provided to the New York State Department of Transportation.
- (viii) Noise Study. Applicant shall provide a noise study of the impacts of construction and operation of the proposed Solar Energy System. Said study shall reference any then existing regulations or suggested industry or development standards put out by the NYS Office of Renewable Energy Siting. Such study shall analyze the projected noise levels for both daytime and nighttime periods generated by the Solar Energy System and all collector substation equipment relative to all surrounding Dwellings.
 - (a) Excepting during construction, such noise study shall demonstrate that the operational noise levels of the Solar Energy System and collector substation equipment will not exceed pre-existing noise levels, for both daytime and nighttime, relative to all surrounding Dwellings, structures and property lines, including both participating and non-participating properties.

- (ix) **Viewshed/Line of Site Analysis.** Applicant shall provide a viewshed/line-of-site analysis, with scaled color visual renderings to demonstrate the adequacy of proposed buffering/screening at the completion of construction of the Solar Energy System, and similar visual renderings of the projected maturation of the buffering/screening at five (5) years and ten (10) years after completion of the Solar Energy System. The Planning Board may require the above viewshed/line-of-site analysis and scaled color visual renderings from multiple angles or perspectives as it/they deem appropriate.
- (a) Applicant shall provide visual renderings of the actual fencing to be used to ensure compatibility and avoid adverse aesthetic impacts.
- (b) Applicant shall provide a written Glare Analysis by a licensed engineer that demonstrates to the Planning Board and Town Engineer that the Solar Energy System uses materials and is designed and located in such a fashion as to prevent reflective glare toward any inhabited buildings on adjacent or nearby properties, roads or from impacting aircraft flight paths as provided in Federal Aviation Administration guidance.
- (x) **Pre-Development Site Condition –** Applicant shall provide a written and visual record of the pre-development site condition (which shall include the site condition prior to any logging/timber harvest or clearing of land in anticipation of the development of a Solar Energy Systems), which must be verified as to being complete by the Building and Zoning Department, to facilitate full and proper remediation of the site upon Decommissioning. As part of this record, Applicant shall provide an analysis of pre-construction soil samples, with such samples collected and analyzed pursuant to the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (or similar successor document of the Department of Agriculture and Markets) that are in effect as of the date of sampling. Such samples shall be taken from various locations on the property on which the Solar Energy System is to be located and are specifically intended to demonstrate the pre-development condition and properties of the soils to ensure that full and proper remediation of the site occurs upon Decommissioning.
- (xi) Any such additional information as may be required by the Town's professional engineer or consultant, Town of York Planning Board, Town Attorney or Code Enforcement Officer.

(xii) **Decommissioning Plan.** To ensure the proper removal of Type 2 Solar Energy Systems after such improvements are no longer reasonably operable or have been abandoned, a Decommissioning Plan shall be submitted as part of the application. For purposes of this Article, the term “reasonably operable” shall mean that such Solar Energy System is operating such that it produces at least 10% of the original nameplate capacity of the Solar Energy System at the time of original construction. The Decommissioning Plan must specify that after the Type 2 Solar Energy System is no longer operational or has been abandoned, it shall be removed by the Applicant or any subsequent owner of the improvements and/or the subsequent owner of the property upon which the Type 2 Solar Energy System is placed. The plan shall demonstrate how the removal of all infrastructure and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to construction. The plan shall also include an expected timeline for execution and a cost estimate detailing the projected cost of executing the Decommissioning Plan, which is to be prepared by a Professional Engineer or reputable contractor. Cost estimations shall take into account inflation and shall be based on the operating life expectancy of the system.

(A). Prior to obtaining a building permit and as a condition to issuance of any Special Use Permit, the Applicant and Initial Landowner must enter into a Decommissioning Agreement with the Town that sets forth the obligations of the Applicant and/or the Initial Landowner to properly decommission the Solar Energy System if the use of such system is discontinued, abandoned or becomes inoperable pursuant to §618. E. of this Article as set forth below. Said Decommissioning Agreement shall require the Applicant to provide an irrevocable financial security bond (or other form of surety such as, but not limited to, letters of credit, etc. that are acceptable to the Town of York at its discretion) for the removal of the Type 2 Solar Energy System, with York as the designated assignee/beneficiary, in an amount approved by the Planning Board which is equal to 150% of the estimated removal cost. The bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal. Each year after a Type 2 Solar Energy System has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such Solar Energy System, the then owner/permit holder for the system shall provide the Town of York with written proof

that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above. The Decommissioning Agreement shall provide that Initial Landowner (or the successor and/or assigns of Initial Landowner) shall be responsible for all obligations pursuant to the Decommissioning Agreement in the event Applicant (or the successor owner of the Solar Energy System) does not complete all obligations as required by said Decommissioning Agreement. The Decommissioning Agreement shall be recorded at the office of the Livingston County Clerk and shall be indexed as deed restrictions against the property upon which the Solar Energy System is constructed, with the Town as a benefitted party, so as to put all future owners of the subject real property on notice of the obligations contained in the Decommissioning Agreement.

- (xiii) At its sole discretion, the Town of York Planning Board may refer an application for a Type 2 Solar Energy System to one or more private consultants for review to assist such Board in properly fulfilling its duties. Such consultants may include professional engineers, attorneys, planning consultants or other specialists. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, either Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Planning Board shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town

shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval, the Planning Board may require that additional monies be deposited with the Town before further review of the application will continue. The Planning Board may suspend indefinitely the review of any application as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of New York State law, rule or regulation relating to the timing of issuance of decisions for such applications.

- (xiv) If a Type 2 Solar Energy System is proposed to be developed on land that is or could be in agricultural production, Applicant shall demonstrate how the proposed development complies with the then current guidelines as may be established by the New York State Department of Agriculture and Markets relating to Construction Mitigation for Agricultural Lands.
 - (xv) The Applicant shall be required to facilitate one or more site visits as deemed necessary or desirable by the Planning Board.
- c. **Special Use Permit and Site Plan Approval Standards.** In addition to those standards set forth in Article IX., §905. D. (2), the Applicant shall comply with the following:
- (i) **Height.** Type 2 Solar Energy Systems shall not exceed a maximum height of fifteen (15) feet as measured from the highest point of any Solar Panel (oriented at maximum tilt) or Solar Energy Equipment, to the ground directly beneath it.
 - (ii) **Setbacks.** Type 2 Solar Energy Systems shall be sited to create a front setback of no less than 100 feet (measured from the fence-line of the Solar Energy System) from the right-of-way line of any public or private roadways and setbacks of 200 feet (measured from the fence-line of the Solar Energy System) from all side and rear property lines, excepting that such Type 2 Solar Energy Systems shall be setback a minimum of 300 feet from the zoning district

boundary of any area classified as Hamlet Residential Zoning District (HR) as enumerated on the Town Zoning Map and as regulated under Article IV., §402 of the Zoning Ordinance. In addition, no Type 2 Solar Energy System shall be located closer than 300 feet (measured from the fence-line of the Solar Energy System) from any Dwelling or Accessory Building containing a Dwelling Unit that is located on another parcel. The above stated side and rear property setback restrictions and those setbacks relating to a Dwelling or Accessory Building containing a Dwelling Unit, may be waived on any contiguous parcel (to that parcel upon which the Solar Energy System is being developed) owned by a participating landowner that owns the parcel upon which the subject Solar Energy System is being parcel. The above waiver shall not apply to any contiguous parcels that are not owned by the same landowner that owns the land upon which the Solar Energy System is placed.

- (iii) Lot Size. Type 2 Solar Energy Systems shall be located on Lots with a minimum Lot size of 25 acres.
- (iv) Lot Coverage. Type 2 Solar Energy System shall not exceed 80% coverage of the Lot on which it is installed. The coverage area shall be determined by the area covered by the perimeter of the Solar Energy System at minimum tilt and shall not include required fencing or access roads. It is the express intention of the Town of York that no variance or hardship request be granted to permit increased coverage by Type 2 Solar Energy Systems by any board or commission or other agency having legal authority to consider and grant such a variance or hardship request
- (v) Prohibition of Development on Prime Farmland and Farmland of Statewide Importance. Development of Type 2 Solar Energy Systems is not permitted on any property or Lot that is classified or designated as Prime Farmland or Farmland of Statewide Importance.

For reference, see map styled “Town of York – Lands Not Excluded for Type 2 Solar, prepared October, 2019, which said map is incorporated into these amendments and the underlying regulations by reference.

- (vi) Glare. All Solar Panels shall have anti-reflective coatings(s). All Type 2 Solar Energy Systems shall be designed and located in such a fashion as to prevent reflective glare toward any inhabited buildings on adjacent or nearby properties, roads or from impacting

aircraft flight paths as provided in Federal Aviation Administration guidance.

- (vii) **Fencing and Screening.** All Type 2 Solar Energy Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed and maintained on the entrance and perimeter of the fencing. The fencing and the Solar Energy System may be required to be further screened and/or enhanced by landscaping to avoid adverse aesthetic impacts. It is the intent of this Article, that in addition to screening of the visual impact cause by Solar Energy Equipment, adequate landscaping and plantings be integrated to make the entire developed site (including both outside and inside any fence) more visually appealing. All such landscaping and plantings shall be given routine maintenance, mowing and trimming, which shall also include the area under and around all panels and the rows in between panels such that the Solar Energy Systems appears orderly and neat at all times. All buffering/landscaping materials shall be designed to promote sustainability, diversity and visual variety, which shall include a mixture of plant species, sizes/heights, deciduous and evergreen trees and/or shrubs and shall be noted in detail on a landscaping plan that shall be approved by the Planning Board. The Planning Board shall provide for enhanced screening and buffering for Type 2 Solar Energy Systems that are placed adjacent to residential zoning districts, areas containing residential Lots, residential uses or abut a public road.
- (viii) **Number of Type 2 Solar Energy Systems allowed per Lot.** Only one Type 2 Solar Energy System shall be allowed per Lot or parcel, regardless of Lot size.
- (ix) **Recent Subdivision of Lot/Parcel.** In order to prevent circumvention of the size and coverage restrictions set forth above, when considering such restrictions, the Zoning Board of Appeals shall consider the Lot or parcel to be the smallest configuration of the physical area where the Type 2 Solar Energy System is being proposed that has existed as a separate Lot or parcel (with its own Tax Identifier Map Parcel Number) in the official tax records of the Town of York within the ten (10) years immediately preceding the application seeking approval for such Type 2 Solar Energy System. This provision is specifically intended to prevent an owner of land from combining lands into larger parcels that would permit siting of larger Type 2 Solar Energy Systems on what would have otherwise been a lot or parcel that would have permitted a smaller Type 2 Solar Energy System with coverage as restricted herein.

- (x) **Vegetation and Habitat.** Type 2 Solar Energy System owners/developers shall develop and provide a written vegetation management plan (which shall be approved by the Planning Board) to implement and maintain for the life of the project, native, non-invasive plants and vegetation for the entire developed site, including around any fence perimeter and under and around the Solar Panels, such plantings to provide foraging habitat beneficial to game birds, songbirds and pollinators. The written vegetation management plan shall provide for routine maintenance, mowing and trimming, which shall also include the area under and around all panels and the rows in between panels such that the Solar Energy Systems appears orderly and neat at all times. To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, owners/developers shall use native, non-invasive plant species and seed mixes.
- (xi) Any Type 2 Solar Energy System shall be accessible for all emergency service vehicles and personnel to the satisfaction of the Livingston County Office of Emergency Management Services Director and local fire department Chief.
- (xii) After completion of a Type 2 Solar Energy System, the Applicant shall provide a post- construction certificate from a Professional Engineer registered in New York State, certifying that the Type 2 Solar Energy System complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
- (xiii) Compliance with regulatory agencies. The Applicant is required to obtain all necessary regulatory approvals and permits from all federal, state, county and local agencies having jurisdiction and approval powers related to the completion of a Type 2 Solar Energy System.
- (xiv) Any application under this Section shall meet substantive Site Plan requirements in Article XI that, in the judgment of the York Town Planning Board, are applicable to the system being proposed.
- (xv) The Planning Board shall be required to hold a public hearing relating to Site Plan for any Type 2 Solar Energy System and may conduct a single Public Hearing for both Site Plan and Special Use permit applications.
- (xvi) Prior to determination or issuance of any permit, all Type 2 Solar Energy System applications shall be subject to review pursuant to

the New York State Environmental Quality Review Act (6 NYCRR 617). All applications (Site Plan and Special Use Permit) for approval of a Type 2 Solar Energy System shall be deemed to be Type I Actions for purposes of compliance with the New York State Environmental Quality Review Act. The Planning Board has the authority, pursuant to 6 NYCRR 617.4 (a) (1) and (2), to classify such actions in addition to the list established by such statute. The Planning Board shall conduct a coordinated review to the extent other interested and/or involved agencies are identified. Such review shall not be completed or closed out, and a final determination of significance made, until after the review of the application has been completed.

- (xvii) The development and operation of a Type 2 Solar Energy System shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats, or other significant habitats identified by the Town of York or other federal or state regulatory agencies. While not strictly prohibited, it is strongly discouraged that Type 2 Solar Energy Systems be placed on parcels that will require the removal of wooded areas or development on wetland areas.
- (xviii) The York Town Planning Board may impose conditions on the approval of any Site Plan or Special Use Permit under this Article to enforce the standards referred to in this Article or to discharge its obligations under the State Environmental Quality Review Act.
- (xix) Time limit on completion. After receiving Site Plan approval and Special Use Permit approval of a Type 2 Solar Energy System, an Applicant shall obtain a Building Permit within twelve (12) months of such approvals or the approvals shall automatically terminate and be deemed null and void. The above time period may be extended by the Planning Board, at its sole discretion, upon a showing of good cause by Applicant. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twenty (24) months of obtaining such approvals or the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law. The above time period may be extended by the Planning Board, at its sole discretion, upon a showing of good cause by Applicant.
- (xx) General complaint process. During construction, the Code Enforcement Officer can issue a stop work order at any time for any violations of a Special Use Permit approval or condition, Site Plan approval or condition or building permit. After construction is

complete, the permit holder of a Type 2 Solar Energy System shall establish and maintain a contact person, including name and telephone number for receipt of any complaint concerning any permit, approval, maintenance, or operational requirements.

- (xxi) **Inspections.** During construction and upon reasonable notice, the Town of York Code Enforcement Officer, or his or her designee, may enter a Lot on which a Type 2 Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Twenty-four (24) hours' notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. After construction is completed and the Solar energy System is operational, upon reasonable cause, at the discretion of the Town of York Code Enforcement Officer, or his or her designee, said Code Enforcement Officer (or his or her designee) may upon reasonable notice enter a Lot on which a Type 2 Solar Energy System has been approved for the purpose of determining compliance with any requirements or conditions of this Article or any approval given or permit issued pursuant to this Article. Furthermore, a Type 2 Solar Energy System shall be inspected by a New York State licensed Professional Engineer that has been approved by the Town of York at any time upon a reasonable determination by the Town's Code Enforcement Officer that damage to such system may have occurred, and a copy of the written inspection report shall be submitted to the Code Enforcement Officer. Any fee or expense associated with this inspection shall be borne entirely by the permit holder and shall be reimbursed to the Town of York within thirty 30 days after delivery to the permit holder of an invoice substantiating such charges. Any failure to pay such reimbursable charges may result in revocation of any Special Use Permit granted. The Town of York reserves the right to levy all such un-reimbursed expenses onto the real property tax bill associated with the real property upon which the Solar Energy System is located.
- (xxii) **Construction hours.** During initial construction or any major replacement of the Solar Panels or Solar Energy Equipment after initial construction, all construction activities shall be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m. No construction activities shall take place on Sunday or any Federal holiday.
- (xxiii) **Until Decommissioning has been fully completed pursuant to this Article, each year, by January 20th, the owner or operator of the**

Solar Energy System (or its agent) shall provide the Town Building and Zoning Department with a notarized statement disclosing and certifying the actual produced amount of solar energy for the preceding year and a calculation showing such production as a percentage of the original nameplate capacity of the Solar Energy System. Such information is intended to allow Town officials to confirm that the Solar Energy System is “reasonably operable” or “inoperable” as defined in this Article, and/or whether such system is exceeding its nameplate capacity.

- D. General regulations. The placement, construction and major modification of all Solar Energy Systems within the boundaries of the Town of York shall be permitted only as follows:
- (1) Any inconsistent provisions of the Code of the Town of York which purport to or may be interpreted to allow Solar Energy Systems in other districts are hereby superseded.
 - (2) All Solar Energy Systems that have received a Special Use Permit or Building Permit as of the effective date of this Article shall be “grand fathered” and allowed to continue as they were approved. Routine maintenance (including replacement with a new system of like construction and size) shall be permitted on such existing systems. New construction other than routine maintenance on pre-existing systems shall comply with the requirements of this Article.
 - (3) All new Solar Energy Systems and all additions and modifications to any pre-existing Solar Energy System shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and all local laws, codes, rules and regulations of the Town of York.
 - (4) For all Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems or Type 2 Solar Energy Systems, Applicant and/or the successor owner or operator shall provide a written training plan that provides for proper training of the Town Code Enforcement Office, Fire Department, Emergency Responders, Livingston County Emergency Management Services and Police agencies relative to health and safety concerns associated with larger scale commercial Solar Energy Systems. Such training plan shall be implemented before the Solar Energy System is made commercially operational. All costs and expenses related to such training shall be borne by the Applicant or the successor owner or

operator of the Solar Energy System.

- (5) Any applications (including variance applications) pending for Solar Energy Systems on the effective date of this article shall be subject to the provisions of this Article.
- (6) This Article shall take precedence over any inconsistent provisions of the Zoning regulations contained within the Code of the Town of York.
- (7) No Solar Panels or other Solar Energy Equipment used in any Solar Energy System shall utilize or contain any amount of GenX chemicals or polyfluoroalkyl substances (PFAS). Applicant shall provide certified documentation that all Solar Panels and other Solar Energy Equipment do not contain polyfluoroalkyl substances, including PFOA, PFOS and/or GenX chemicals.
- (8) For all Solar Energy Systems, no signage or graphic content may be displayed on the Solar Energy Equipment except the manufacturer's badge, safety information and equipment specification information.
- (9) For Type 2 Solar Energy Systems, a sign not to exceed nine square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number, disconnect and other emergency shutoff information, 24-hour emergency contact information, and it will be clearly displayed on a light reflective surface.
- (10) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (11) Payment in Lieu of Tax Agreement. The owners or developers and landowners of the property upon which Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems or Type 2 Solar Energy Systems are to be developed shall be required to enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a). Upon the owner or developer providing written notification to the Town of its intent to construct a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System, the Town Assessor or the Town Attorney on behalf of the taxing jurisdiction shall notify such owner or developer in writing within sixty (60) days of its intent to require a contract for payments in lieu of taxes.
 - a. In no event shall such payment in lieu of tax agreement operate for a period of more than fifteen (15) years, commencing in each instance from the date on which the benefits of such exemption first become available

and effective under Real Property Tax Law §487.

- b. In no event shall such payment in lieu of tax agreement require annual payments in an amount that would exceed the amount that would otherwise be payable but for the exemption under Real Property Tax Law §487.
- c. The payment in lieu of tax agreement shall run to the benefit of the Town of York and be executed by the Applicant/developer as well as the owners of the real property upon which the Solar Energy System is to be located and such signatures shall be notarized in a format that allows the payment in lieu of tax agreement to be recorded at the Office of the Livingston County Clerk. Such payment in lieu of tax agreement shall, prior to commencement of construction, be recorded at the office of the Livingston County Clerk (at the expenses of Applicant/developer) as a lien on the property upon which and indexed against the property upon which the Solar Energy System is to be constructed. The intent of the above provisions is so that should the Applicant/developer or owner of the Solar Energy System default with regard to such payment in lieu of tax agreement, that such obligation will become the responsibility of the then owner of the property upon which the Solar Energy System is sited and that failure to satisfy the terms of such agreement will permit the Town of York to enforce such agreement as against the owner of the real property and the real property.
- d. At its sole discretion, the York Town Board may refer an application for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required payment in lieu of tax agreement. Such consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Town shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be

borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval of the required payment in lieu of tax agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the payment in lieu of tax agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the payment in lieu of tax agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants. Any such suspension shall supersede any Town of York, New York State law, rule or regulation relating to the timing of issuance of approvals for such payment in lieu of tax agreements.

- e. No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a payment in lieu of tax agreement has been executed by all parties.
- (12) Community Benefit Agreement. The owners or developers and landowners of the property upon which a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System is to be developed shall be required to enter into a community benefit agreement with the Town for payment by the owners, developers or landowners to the Town, of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System.
- a. At its sole discretion, the York Town Board may refer an application for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System to one or more private consultants to assist such Board in negotiating, drafting and/or reviewing the required community benefit agreement. Such

consultants may include a professional engineer, attorney, planning consultant or other specialist. All expenses incurred by the Town for this purpose shall be reimbursed to the Town by the Applicant within thirty (30) days of the Town issuing a detailed invoice to Applicant requesting reimbursement for the same. At its discretion and at any time during the application process, the Town Board may require that Applicant furnish a deposit in an amount that it deems initially sufficient to be used for reimbursement of such expenses. Upon request of Applicant, the Town shall provide a general estimate of anticipated consulting services to be provided and estimated costs for the same. However, any such estimate of services or costs related to such services shall not in any way restrict the level of reimbursement ultimately required to be made by Applicant. It is the specific intention of this section that all expenses relating to professional consulting services rendered to the Town or any of its Boards, relating to an application for development of a Solar Energy System, be borne by the Applicant and not the taxpayers of the Town. Any such deposit shall be held in a non-interest bearing account and shall be used to reimburse the Town for expenses that have been incurred as a result of such consultants. Prior to the Town making any payment or withdrawal from such account, the Town shall provide Applicant with notice of such intended payment and documentation supporting such payment. Applicant shall have the right, within five (5) business days from receipt of such notice, to protest any account withdrawal or payment to a consultant which it contends is not reasonably necessary or is not reasonable in amount. The Town Board shall thereafter have thirty (30) days to provide its determination with regard to Applicant's objection, which shall be provided to Applicant in writing. Should such deposit be depleted prior to final approval of the required community benefit agreement, the Town Board may require that additional monies be deposited with the Town before further processing of the community benefit agreement will continue. The Town Board may suspend indefinitely the negotiation and drafting and review of the community benefit agreement as a result of the failure of Applicant to timely remit a required deposit or to promptly reimburse the Town for expenses relating to such consultants.

- b. No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System until such time as a community benefit agreement has been executed by all parties.

- (13) **Road Use Agreement.** Prior to issuance of any building permit for a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System and as a condition to any Special Use Permit being issued, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town and in a format acceptable to the Town at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System. As a part of such Road Use Agreement, Applicant (or its General Contractor) shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of York at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions set forth in the applicable Road Use Agreement.
- a. In the event that any damage is done to any Town road as a result of the development of an Applicant's Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System, said Applicant and/or its General Contractor shall be responsible to perform repairs to such road that are acceptable to the Town Highway Superintendent in his/her reasonable discretion.
 - b. Such repairs shall be completed within sixty (60) days of when written notice of a demand to repair was personally served or sent via certified mail to Applicant or its General Contractor or such longer timeframe as determined by the Town Board at its sole discretion upon a showing of good cause by Applicant. Should Applicant or its General Contractor fail to effectuate such repairs within sixty (60) days, or within a different timeline at the discretion of the Town Board, the Town shall be permitted to execute on the irrevocable financial security bond (or other form of surety) with written notice to Applicant or its General Contractor.
 - c. The provisions of the Road Use Agreement required hereby and the requisite financial security bond (or other form of surety) shall remain in full force and effect for no less than one year after all construction has been completed and the project has been certified as complete by a professional engineer.
 - d. No building permit may be issued for any approved Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy

System or Type 2 Solar Energy System until such time as a Road Use Agreement as required hereby has been executed by all parties.

(14) Traffic Routes. Construction and delivery vehicles for Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System and Type 2 Solar Energy Systems shall use traffic routes established as part of the applications review process. Factors in establishing such corridors shall include:

- a. *Minimizing traffic impacts from construction and delivery vehicles.*
- b. *Minimizing Solar Energy System related traffic during times of school bus activity.*
- c. *Minimizing wear and tear on local roads.*
- d. *Minimizing impacts on local businesses.*
- e. *Special Use Permit approval may contain conditions that limit Solar Energy System related traffic to specified routes and include a plan for disseminating traffic route information to the public.*

E. Abandonment and Decommissioning.

- (1) If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 180 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or 180 days without production of energy and offsite sale to and consumption by one or more customers for Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems or Type 2 Solar Energy Systems. Each of the above time frames may be extended by the Town Board, at its sole discretion, upon a showing of good cause by the then owner or operator of the Solar Energy System.
- (2) Determination of Abandonment or Inoperability. A determination of the abandonment or inoperability of a Solar Energy System shall be made by the Town Code Enforcement Officer, who shall provide the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is located with written notice by personal service or certified mail. At the earlier of the 91 days from the date of determination of abandonment or

inoperability without reactivation or upon completion of dismantling and removal, any approvals and/or permits granted or issued for the Solar Energy System shall automatically expire. For purposes of this Article, the term “inoperability” or “inoperable” shall mean that such Solar Energy System is operating such that it produces less than 10% of the original nameplate capacity of the Solar Energy System at the time of original construction.

- (3) **Removal.** All Solar Energy Systems (and related infrastructure) shall be dismantled and removed immediately from a Lot where the Special Use Permit or Site Plan approval has been revoked by the Town of Planning Board, or if the Solar Energy System has been deemed by the Code Enforcement Officer to be inoperative or abandoned for a period of more than 180 days (unless the time frame is extended by the Town Board pursuant to the provisions of paragraph (1) above) and the Lot shall be restored to its pre-development condition. The responsibility to dismantle and remove and all such costs of removal shall be the sole responsibility of the permit holder, owner or operator and/or owner of the real property upon which the Solar Energy System is located. If the permit holder, owner or operator and/or owner of the real property upon which the Solar Energy System is located does not dismantle and remove said Solar Energy System as required by the Decommissioning Agreement, the Town Board may complete removal and decommissioning as set forth in the Decommissioning Agreement and levy all related expenses (not covered by any removal bond or other form of surety provided pursuant to such Decommissioning Agreement) associated with the removal onto the real property tax bill associated with the property upon which the Solar Energy System was located, regardless of who the permit holder, owner or operator and owner of the real property upon which the Solar Energy System is/was. Any costs or expenses related to removal (by the Town or completed on behalf of the Town’s authority pursuant to this section) that are to be levied onto the real property tax bill for the property on which the Solar Energy System was located, shall not be off-set, reduced or diminished for any recycling or salvage credits or value relating to the removed Solar Panels or Solar Energy Equipment, except and unless the Town has actually received such credits or value prior to the relevy of such costs and then, such reduction shall be limited to the actual dollar value received by the Town. Nothing in this Article shall be interpreted to require or obligate the Town to undertake to obtain salvage or recycling credits, value or proceeds with regard to any Solar Panels or Solar Energy Equipment to be removed pursuant to this section.
- (4) **Removal of all Commercial Building-Mounted Solar Energy Systems, Commercial Roof-Mounted Solar Energy Systems and Type 2 Solar Energy Systems** shall be in accordance with the Decommissioning Agreement required by §618. C. (7) b. (xii) (A). above.

- F. **Revocation.** If the Applicant or its successor in title/ownership of any Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System violates any of the conditions of its Special Use Permit, Site Plan approval, any provision of this Article or violates any other local, state or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval as well as any Certificate of Compliance or Certificate of Occupancy issued for such System. Revocation may occur after the applicant is notified in writing of the violations and the Planning Board holds a hearing on the alleged violations, at which the Applicant or its successor in title/ownership shall have an opportunity to be heard and present evidence in defense of the allegations of such violations.
- G. **Enforceability; Penalties for Violations.** In addition to Revocation as provided for in section F. above, any violation of or failure to comply with any provision of this Article or any approval granted pursuant to this Article shall be result in a fine of not less than \$350.00, nor more than \$500.00 or imprisonment not to exceed 15 days or both such fine and imprisonment for a first offense. For a second offense, such fine shall be not less than \$500.00, nor more than \$1,000.00 or imprisonment not to exceed 15 days or both such fine and imprisonment. For a third or more offense, such fine shall be not less than \$1,000.00, nor more than \$5,000.00 or imprisonment not to exceed 15 days or both such fine and imprisonment. From the date of notice of the initial violation, each week of continued violation shall constitute a separate and distinct offense.
- H. **Civil Penalty.** Any person or entity violating any provision of this Article, or any condition of any approval granted pursuant to this Article shall be subject to a civil penalty of \$2,500.00 for each offense, enforceable and collectible by the Town of York. From the date of notice of the initial violation, each week of continued violation shall constitute a separate and distinct offense.
- I. **Interpretation; conflict with other law.** In its interpretation and application, the provisions of this Article shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. This Article is not intended to interfere with, abrogate or annul other rules, regulations or laws, provided that whenever the requirements of this Article are at a variance with the requirements of any other lawfully adopted regulations, rules or laws, the most restrictive, or those which impose the highest standards shall govern.
- J. **Severability.** If any section, subsection, phrase, sentence or other portion of this Article is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

- K. Commencement of Operations. No Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System, Type 1 Solar Energy System requiring Site plan approval or Type 2 Solar Energy System shall be made operational until such time that all conditions of approval relating to the Site Plan and Special Use Permit have been satisfied, the System fully complies with the solar regulations in this Article VI of the Town of York Zoning Ordinance and a Certificate of Compliance or Certificate of Occupancy has been issued by the Code Enforcement Officer. Should any such Solar Energy System be made operational prior to the above conditions being fully met and satisfied, it will be deemed a violation and may result in revocation of the Site Plan approval and/or Special Use Permit approval, along with any other remedy available pursuant to the Town of York Zoning Ordinance or New York state law.”

This Local Law shall take effect immediately upon filing with the Secretary of State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.

(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 20 23 of the (County)(City)(Town)(Village) of YORK was duly passed by the Town Board on May 9 20 23, and was (approved)(not approved) (repassed after disapproval) by the Supervisor and was deemed duly adopted on May 9 20 23, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 2 above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: May 10, 2023

(Seal)

Supervisor
GERALD L. DEMING

Town Board
AMOS N. SMITH
NORMAN R. GATES
FRANK ROSE JR.
JASON E. SWEDE

Highway Superintendent
GEORGE WORDEN JR.

Zoning/Code Enforcement
CARL PETER



Town Clerk/Tax Collector
CHRISTINE M. HARRIS

Town Justices
THOMAS A. PORTER
DANIEL R. KOCH

Court Clerk
KIMBERLY A. REITZ

Assessor
GREGG TORREY

TOWN OF YORK

2668 Main Street, P O Box 187, York, NY 14592-0187
Tel: (585) 243-3128 Fax: (585) 243-4618
TTY NY: (800) 662-1220

May 10, 2023

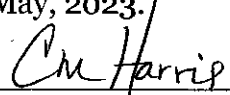
State of New York
County of Livingston
Town of York
Office of the Town Clerk

I, Christine M. Harris, Town Clerk of the Town of York, New York, Livingston County, do hereby certify that: AT THE TOWN BOARD MEETING of May 9, 2023, the attached Local Law #4 of 2023: "A Local Law to repeal and replace the existing Article VI of the Zoning Ordinance of the Town of York (as originated by Local Law #2 of 2018 and later amended by Local Law #6 of 2019) with a new Article VI to regulate the approval and siting of Solar Energy Systems within the Town of York," was approved.

The Public Hearing on the above stated Law, was published in the Livingston County News of Geneseo, New York, the Official Publication of the Town of York, and on the Town of York website: www.yorkny.org. The date of the Public Hearing was April 19, 2023 at 5:00 pm, and held at the York Town Hall, 2668 Main Street, York, New York.

All published notices of this Law were posted on the York Town Clerk's signboard. All York Town Board Members had notice of such meeting at least ten (10) days previous to the Public Hearing.

Witness my hand and the seal of said Town of York, New York on the 10th day of May, 2023.


Christine M. Harris, Town Clerk
Town of York

" This is an Equal Opportunity Program. Discrimination is prohibited by Federal law. Complaints of discrimination may be filed with USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 1400 Independence Ave., SW, Washington, DC 20250-9410."

Fowlerville - Greigsville - Linwood - Piffard - Retsof - Wadsworth - York

Town of York

Lands Not Excluded for Type 2 Solar

Livingston County



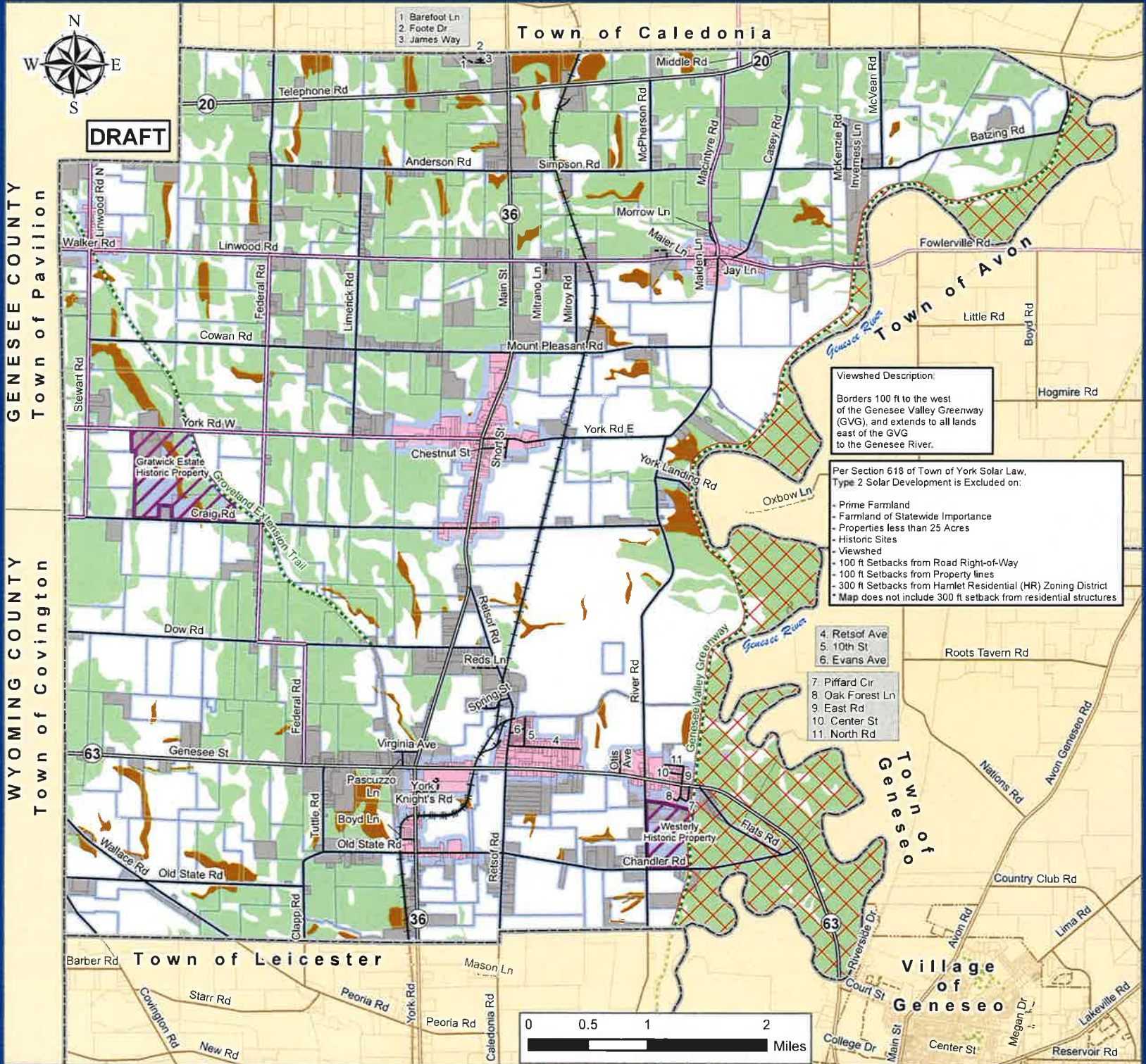
Land Where Type 2 Development NOT Excluded

- Prime Farmland
- Farmland of statewide importance
- Viewshed
- Historic Sites
- Setback Areas
- Tax Parcels: Less than 25 Acres
- Town Boundary
- Village Boundaries
- Tax Parcels
- State Highway
- County Highway
- Town Road
- Private Road
- Seasonal Road
- Railroads
- Trails

Sources:

Tax Parcels: Livingston County Office of RPTS
 Historic Properties: NYSHPO
 Farmland Soils: USDA (NRCS) Soil Survey 1956

M:\ARCVIEW\Technical Assistance\York\Solar Lands
 \October 2019 Update\T2solar_LandRegs_TYork_FINAL.mxd



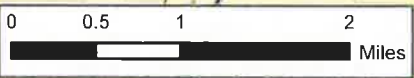
DRAFT

Viewshed Description:
 Borders 100 ft to the west of the Genesee Valley Greenway (GVG), and extends to all lands east of the GVG to the Genesee River.

Per Section 618 of Town of York Solar Law, Type 2 Solar Development is Excluded on:

- Prime Farmland
- Farmland of Statewide Importance
- Properties less than 25 Acres
- Historic Sites
- Viewshed
- 100 ft Setbacks from Road Right-of-Way
- 100 ft Setbacks from Property lines
- 300 ft Setbacks from Hamlet Residential (HR) Zoning District
- * Map does not include 300 ft setback from residential structures

4. Retsof Ave
5. 10th St
6. Evans Ave
7. Piffard Cir
8. Oak Forest Ln
9. East Rd
10. Center St
11. North Rd



Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

County

City of

Town

Village

LIVINGSTON

FEB 09 2009

Local Law No. 1 of the year 2009

MISCELLANEOUS
& STATE RECORDS

A local law

(Insert Title)

" ZONING ORDINANCE OF THE

TOWN OF YORK"

Be it enacted by the

YORK TOWN BOARD

(Name of Legislative Body)

of the

County

City of

Town

Village

YORK

as follows:

" see attached documentation"

(If additional space is needed, attach pages the same size as this sheet, and number each.)



(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, in accordance with the applicable provisions of law.

(Name of Legislative body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2009 of the (County)(City)(Town)(Village) of YORK was duly passed by the YORK TOWN BOARD on Jan. 15 20 09, and was (approved)(not approved) (repassed after disapproval) by the SUPERVISOR and was deemed duly adopted on Jan. 15 20 09, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

(Name of Legislative Body)

(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.

C. Harris

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: February 5, 2009

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Livingston

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Ronald Q. ...

Signature

TOWN ATTORNEY

Title

County _____
City of YORK
Town
Village _____

Date: February 5, 2009



Documents required by the Applicant

Minor Subdivisions:

The applicant shall provide five (5) copies of the plat, a completed application form, and the appropriate fee to the Town prior to the Planning Board meeting. The final plat shall be on mylar (one [1] copy required).

Major Subdivisions:

Preliminary plats require five (5) copies of the plat, a completed application form, and the appropriate fee prior to the Planning Board meeting.

Final plats require a copy of the application; one (1) final plat on mylar and two (2) copies; one (1) copy of the original plat; an original copy of any land agreements, easements, etc.; and two (2) copies of all construction drawings prior to the Planning Board meeting.



Town of York

Subdivision Application Process Overview

**Contact:
Christine Harris, Town Clerk
585-243-3128**

**2668 Main St.
York, NY 14592
(585) 243-3128**



Town of York Subdivision Review and Approval Process

Sketch Plan Submission

Recommended

Minor Subdivision

Submit Application, Plat and
Fee to Planning Board
Secretary

Subdivision Applicant Attends
Planning Board Meeting

Public Hearing to Review
Minor Subdivision
Application

Planning Board Action

Major Subdivision

10 Days prior to Planning Board meeting

Submit Preliminary Plat
Application and Fee to
Planning Board Secretary

Subdivision Applicant Attends
Planning Board Meeting

Within 62 days of filed application

Public Hearing to Review
Major Subdivision
Preliminary Application

Within 62 days of public hearing

Planning Board Action
(Approve, Conditionally
Approve or Disapprove

SEORA
Compliance



Approve or Disapprove)

**Planning Board Clerk Shall
File Certified Plat**

Within 5 days of approval

**Planning Board Clerk Shall
File Certified Preliminary
Approval and Notify
Applicant**

Within 6 months of preliminary plat
approval and 10 days prior to Planning
Board Meeting

**Submit Final Plat Application
and Fee to Planning Board
Secretary**

**Endorsement of County and
State Agencies**

Within 62 days of filed application

**Public Hearing to Review
Major Subdivision
Preliminary Application**

Within 62 days of public hearing or
application, whichever applies

**Planning Board Action
(Approve, Conditionally
Approve or Disapprove)**

Within 5 days of action

**Planning Board Must Notify
Applicant of Action**

Approval
Options

Within 62 days of Approval

**Signed by Planning Board
Chair and filed with the
County Clerk's Office**

Within 6 months of conditional approval

**Applicant must meet specified
requirements; two 90-day
extensions may be granted**



Land Subdivision Regulations
of the
Town of York

Livingston County, NY

Adopted: January 15, 2009



TOWN of YORK

Subdivision Regulations

ARTICLE I. DECLARATION OF POLICY

By the authority of the resolution of the Town Board of the Town of York adopted on _____, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of York is authorized and empowered to approve Plats showing lots, blocks, or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the clerk of the county and to approve preliminary plats within the Town.

It is the policy of the Planning Board to consider land Subdivision Plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided, shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provisions shall be made for drainage, water supply, sewage and other needed improvements.

All proposed lots shall be so laid out and of such a size as to complement the rural character of the Town and to be in harmony with the development pattern of neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists and shall be properly related to the proposals shown on the Comprehensive Plan and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provisions shall be made for open spaces for parks and playgrounds.

In order that land subdivisions may be made in accordance with this policy, these regulations shall be known as the "Town of York Land Subdivision Regulations" having been adopted by the Planning Board on _____ and approved by the Town Board on _____.

ARTICLE II. DEFINITIONS

For the purpose of these regulations, certain words and terms used herein are defined as follows:

Collector Street: Means a street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

Cul-de-Sac: Means a street or a portion of a street with only one vehicular traffic outlet.

Developer: Means any person, firm, corporation, partnership or association, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

Easement: Means the authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

Engineer or Licensed Professional Engineer: Means a person licensed as a professional engineer by the State of New York.

Major Street: Means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Major Subdivision: Means any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

Master or Comprehensive Plan: Means a comprehensive plan, prepared by the Planning Board pursuant to Section 272-a of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the Town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

Minor Street: Means a street intended to serve primarily as an access to abutting properties.

Minor Subdivision: Means any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities.

Official Map: Means the map established by the Town Board pursuant to Section 270 of the Town Law, showing streets, highways, and parks.

Planning Board or Board: Means the Planning Board of the Town.

Preliminary Plat: Means a drawing or drawings clearly marked "preliminary plat" showing the salient features of a proposed subdivision, submitted to the Planning Board for the purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

Street: Means and includes streets, roads, avenues, lanes, or other traffic ways, between right-of-way lines.

Street Pavement: Means the wearing or exposed surface of the roadway used by vehicular traffic.

Street Width: Means the width of the right-of-way, measured at right angles to the center line of the street.

Subdivision: Means the division of any parcel of land into three or more lots, blocks, or sites, with or without streets or highways and includes re-subdivision.

Subdivision Plat or Final Plat: Means a drawing, in final form, as specified in Article V, Section 3 of these regulations, showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval, and which if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Register.

Surveyor: Means a person licensed as a land surveyor by the State of New York.

Town Board: Means the legislative body of the Town.

Town Engineer: Means the duly designated engineer of the Town or position assigned with similar

duties.

Undeveloped Subdivision: Means those subdivisions existing at the time of the enactment of this Ordinance that have been filed in the Office of the County Clerk which are either undeveloped or only partially undeveloped and contains an inadequate street system, lot arrangement or other similar design deficiencies that would preclude or make impractical its full and proper future development in accordance with current development standards.

ARTICLE III. GENERAL REQUIREMENTS

Section 1 --General

A. Character of Land and Community:

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. To the greatest extent feasible, the natural and unique features of the land, including prime agricultural soils, as determined by the USDA and the Natural Resources Conservation Service, and any other features deemed significant to the Town or other regulatory agencies shall be preserved. The proposed subdivision shall not have an adverse impact to the community and blend in with the existing character of the community to the greatest extent feasible.

B. Conformity to Town Plans, Regulations, and Other Documents:

Subdivisions shall conform to the Official Map of the Town and shall be in harmony with the Comprehensive Plan. The lots shown on the subdivision plat shall comply with the requirements of the Town zoning ordinance.

C. Specifications for Required Improvements:

All required improvements shall be constructed or installed to conform to the Town specifications, which may be obtained from the Town Engineer.

D. State Environmental Quality Review Act (SEQRA)

All subdivisions require appropriate environmental review in accordance with the State Environmental Quality Review Act. In most cases, the Planning Board will be the lead agency for the purpose of making a determination pursuant to SEQRA.

E. Agricultural Data Statement

Any application for a subdivision, whether minor or major, which is located in or whose property line is within five-hundred (500') feet of a County-adopted, State certified agricultural district shall submit an agricultural data statement along with any other required submittals to assist the Planning Board in its review. Notice shall be sent to applicable property owners and the content of the agricultural data statement shall conform to the Agricultural and Markets Law Article 25-AA, §305-a.

F. County Referral:

Prior to the public hearing on the final plat approval on a minor subdivision or the preliminary and final plat approval for a major subdivision, the Clerk of the Planning Board shall refer the completed subdivision plan to the Livingston County Planning Board for review and recommendation pursuant to General Municipal Law §239-n.

G. Referral to other Agencies:

Any local, state, or federal agency that gives approval, issues permits, or has any other involvement in the subdivision design or process shall have the subdivision plat referred to them for their review and comment. Such agencies shall include, but not be limited to, the local fire department and fire marshall, highway superintendent, and public works superintendent. All comments received shall become a part of the permanent public record of the project.

**ARTICLE IV.
PROCEDURES IN FILING SUBDIVISION APPLICATION**

Whenever any subdivision of land is proposed, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his/her duly authorized agent shall apply in writing or approval of such proposed subdivision in accordance with the following procedures.

Section 1 - Sketch Plan

A sketch plan conference is an important opportunity for the applicant to consult early and informally with the Planning Board as a way to build a better understanding of the proposal and property in question, to help establish an overall design approach that respects important features to the Town, and maximizes the potential of the applicant's property. The applicant is strongly encouraged to have a sketch plan conference prior to submitting a final plat application for a minor subdivision and required to do so prior to a Preliminary Plat application for a major subdivision. The sketch plan should show the location of the subdivision; all existing structures, wooded areas, and significant physical features, including any state or federally regulated features; general topography, USGS 1:24K scale acceptable; available utilities; the proposed pattern of lots and streets, if any; and drainage, sewer and water facilities.

The Planning Board shall determine whether the sketch plan meets the purposes of this Subdivision Regulation and shall inform the subdivider of the necessary action he/she should take in meeting the requirements of these regulations.

Section 2 --Minor Subdivision

The application for a minor subdivision shall not contain more than four lots fronting on an existing street and shall not involve the construction of new streets or extension of municipal utilities.

A. Application and Fee:

Any owner of land shall, prior to subdividing or re-subdividing a minor subdivision, submit an application for approval of a Subdivision Plat to the Secretary of the Planning Board at least ten (10) days prior to the next regularly scheduled meeting of the Planning Board. The Plat shall not be considered complete until a negative declaration has been filed or a draft environmental impact

statement has been filed in compliance with SEQRA. The Plat shall conform to the requirements listed in Article V, Section 1. All applications for Plat approval for Minor Subdivisions shall be accompanied by a fee as indicated in the "Fee Schedule."

B. Number of Copies.

The subdivider shall submit six (6) copies of the Plat.

C. Subdivider to Attend Planning Board Meeting:

The subdivider, or his/her duly authorized representatives, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.

D. Public Hearing:

A public hearing shall be held by the Planning Board within sixty-two (62) days from the submission of the subdivision plat for approval. At least ten (10) days prior to the public hearing, if the proposed subdivision is within five-hundred (500') feet of a municipal boundary, the Town clerk shall notify the clerk of the adjacent municipality of the hearing pursuant to General Municipal Law §239-nn. Said hearing shall be advertised at least once in a newspaper of general circulation at least five (5) days before such hearing.

E. Action on Subdivision Plat:

The Planning Board shall, within sixty-two (62) days from the date of the public hearing, conditionally approve, disapprove or grant final approval and authorize the signing of such Plat. The ground of refusal shall be stated upon the records of the Planning Board.

Section 3 --Preliminary Plat for Major Subdivision

The application for a major subdivision shall include all subdivisions not classified as a minor subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring new streets or extension of municipal utilities.

A. Application and Fee:

Prior to the filing of an application for the approval of a Major Subdivision Plat, the subdivider shall file an application for the consideration of a Preliminary Plat of the proposed subdivision. The Plat shall not be considered complete until a negative declaration has been filed or a draft environmental impact statement has been filed in compliance with SEQRA. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of Section 276 and 277 of the Town Law, and Article V, Section 2 of these regulations, except where a waiver may be specifically authorized by the Planning Board.

All applications for Plat approval for Major Subdivisions shall be accompanied by a fee as indicated in the "Fee Schedule" for the proposed subdivision to cover administrative and inspection costs.

B. Number of Copies:

Six (6) copies of the Preliminary Plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to the regularly scheduled meeting of the Board.

C. Subdivider to Attend Planning Board Meeting:

The subdivider, or his/her duly authorized representatives, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

D. Study of Preliminary Plat:

The Planning Board shall study the practicability of the Preliminary Plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land; water supply; sewage disposal; drainage; lot sizes and arrangements; the future development of the adjoining lands as yet unsubdivided; agricultural impact identified through the agricultural data statement; environmental impacts identified through SEQRA; and the requirements of the Comprehensive Plan, the Official Map, and Zoning Regulations.

E. Public Hearing:

Within sixty-two (62) days after the receipt of a complete Preliminary Plat by the clerk of the Planning Board, the Planning Board shall hold a public hearing. At least ten (10) days prior to the public hearing, if the proposed subdivision is within five-hundred (500') feet of a municipal boundary, the Town clerk shall notify the clerk of the adjacent municipality of the hearing pursuant to General Municipal Law §239-nn. The public hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing or fourteen (14) days prior if the hearing is held jointly with the hearing on the draft environmental impact statement.

F. Action on Preliminary Plat:

Within sixty-two (62) days after the date of the public hearing, the Planning Board shall approve with or without modification or disapprove such Preliminary Plat. The grounds of a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When approving a Preliminary Plat, the Planning Board shall state in writing modifications if any, as it deems necessary for submission of the Plat in final form. Within five (5) days of the approval of such Preliminary Plat, it shall be certified by the clerk of the Planning Board as granted preliminary approval and a copy filed in his office and a certified copy mailed to the owner. Failure of the Planning Board to act within the required time period shall constitute approval. The certificate of the Town Clerk as to the date of submission and/or hearing and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written approval. The time in which the Planning Board must take action may be extended by mutual consent.

Section 4 --Final Plat for Major Subdivision

A. Application and Fee:

Within six (6) months of the approval of the Preliminary Plat the owner shall file with the Planning Board an application for approval of the Subdivision Plat in final form, including the completion of any modifications provided with the approval of the Preliminary Plat. If the final plat is not submitted within six (6) months of the approval of the Preliminary Plat, the Planning Board may revoke the

approval of the Preliminary Plat.

B. Number of Copies:

The subdivider shall provide the Secretary of the Planning Board with a copy of the application and three copies (one (1) in ink on mylar) of the Plat, plus the original and one (1) true copy of all offers of cession, covenants, and agreements and two (2) prints of all construction drawings. These documents shall be submitted at least ten (10) days prior of the regularly scheduled meeting of the Planning Board.

C. Endorsement of State and County Agencies:

Applications for approval of plans for sewer and water facilities will be filed by the subdivider with all necessary Town, County and State Agencies. Endorsement and approval by the Livingston County Department of Health shall be secured by the subdivider before official submission of the Subdivision Plat.

D. Public Hearing:

Within sixty-two (62) days of the submission of a Plat in final form the Planning Board shall hold a Public hearing which shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days prior to the date of such hearing or fourteen (14) days prior if the hearing is held jointly with the hearing on the draft environmental impact statement. At least ten (10) days prior to the public hearing, if the proposed subdivision is within five-hundred (500') feet of a municipal boundary, the Town clerk shall notify the clerk of the adjacent municipality of the hearing pursuant to General Municipal Law §239-nn. The Planning Board may, however, waive the requirement for such public hearing if the Board deems the Final Plat to be in substantial agreement with the Preliminary Plat and any recommended requirements.

E. Action on Proposed Subdivision Plat:

The Planning Board shall, by resolution, conditionally approve, conditionally approve with or without modifications, disapprove or grant final approval of the Subdivision Plat. The action shall be taken within sixty-two (62) days of its receipt by the Secretary of the Planning Board if no hearing is held, or in the event a hearing is held, within sixty-two (62) days after the date of such hearing. If the Plat is conditionally approved the Secretary of the Planning Board shall, within five (5) days of such action, mail a certified copy to the owner including a certified statement of such requirements which when completed will authorize the signing of the final Plat. If the requirements specified in the statement from the Planning Board are not completed within six (6) months of the date of conditional approval, the conditional approval of the final plat shall expire. The period may be extended by the Planning Board if, in their opinion, such extension is warranted for no more than two (2) additional periods of ninety (90) days.

The Subdivision Plat shall not be signed for recording until the subdivider has complied with the improvements provisions of this Land Subdivision Regulation in Article IV, Section 5. Failure of the Planning Board to act within the required time period shall constitute approval. The certificate of the Town Clerk as to the date of submission and/or hearing and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written approval. The time in which the Board must take action may be extended by mutual consent.

F. Final Approval and Filing:

Upon completion of the requirements in this section and the improvements in Section 5 and notation to that effect upon the Final Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairman or Acting Chairman) and shall be filed by the applicant in the Office of the County Clerk. Any Subdivision Plat not so filed or recorded within sixty-two (62) days of the date upon which such Plat is approved or considered approved by reasons of the failure of the Planning Board to act, shall become null and void.

G. Plat Void if Revised After Approval:

No changes, erasures, modification, or revisions shall be made in any subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

Section 5 --Required Improvements

A. Improvements and Performance Bond:

Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either sub-paragraph (1) OR sub-paragraph (2) below. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the sub divider completes all required improvements according to sub-paragraph two (2), said map shall be submitted, prior to endorsement of the plat, by the appropriate Planning Board officer. However, if the sub divider elects to provide a bond or certified check for all required improvements as specified in sub-paragraph one (1), such bond shall not be released until such a map is submitted.

(1) In an amount set by the Board the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements OR the subdivider shall file with the Town Clerk a performance bond to cover the full costs of the required improvements of Section 277 of the Town Law and shall be satisfactory to the Town Board and the Town Engineer as to form, sufficiency, manner of execution and surety. A period of two (2) years (or other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

(2) The sub divider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed the sub divider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Engineer as to form, sufficiency, manner of execution and surety.

B. Modification of Design Improvements:

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Town Engineer shall issue any authorization under this Section in writing and shall transmit a copy of such authorization to the Planning Board at their next regularly scheduled meeting.

C. Inspection of Improvements:

At least five (5) days prior to commencing construction of required improvements the sub divider shall notify the Town Board in writing of the time when he/she proposes to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

D. Proper Installation of Improvements:

If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the sub divider, he shall so report to the Town Board, Building Inspector, and Planning Board. The Town Board shall then notify the sub divider and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No Plat shall be approved by the Planning Board as long as the sub divider is in default on a previously approved Plat.

Section 6 --Public Streets, Recreation Areas

A. Public Acceptance of Streets:

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any Street, easement, or other open space shown on such Subdivision Plat.

B. Ownership and Maintenance of Recreation Areas:

When a park, playground, or other recreation area shall have been shown on a Plat, the approval of said Plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the Plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

**ARTICLE V.
DOCUMENTS TO BE SUBMITTED**

Section 1 - Minor Subdivision Plat

The following documents shall be submitted for approval:

A. Six Copies of the Minor Subdivision Plat Prepared at a minimum approved scale of 50 feet to the inch (1"=50') and no more than 100 feet to the inch (1"=100') and shall show the following information:

- (1) The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
- (2) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
- (3) The tax map sheet, block and lot numbers, if available.
- (4) All the utilities available within 300 feet of the property, and all streets which are proposed, mapped or built.
- (5) The proposed pattern of lots (including lot width and depth) within the subdivided area.
- (6) All existing restrictions on the use of the land including easements, covenants, or zoning lines.
- (7) An actual field survey of the boundary lines of the parcel being subdivided, giving complete descriptive data by bearing and distances. All corners of the subdivided parcel shall be marked with a permanent iron pin or pipe being not less than ½ inch in diameter and a minimum of 24 inches in length as approved by the Town Engineer, and shall be referenced and shown on the Plat. The plat shall be stamped and signed by a New York State licensed land surveyor.
- (8) All on site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health, and a note to this effect shall be stated on the Plat and signed by a licensed engineer.
- (9) Proposed subdivision name, name of the Town and County in which it is located.
- (10) The date, north point, map scale, name and address of record owner and sub-divider.
- (11) The Plat to be filed with the County Clerk shall be printed on mylar (plastic). The size of said sheet shall not be less than 17 inches by 22 inches or larger than 34 inches by 44 inches.

Section 2 - Major Subdivision Preliminary Plat and Accompanying Data

A. Six Copies of the Minor Subdivision Plat Prepared at a minimum approved scale of 50 feet to the inch (1"=50') and no more than 100 feet to the inch (1"=100') and shall show the following information:

- (1) Proposed subdivision name, name of Town and County in which it is located, date, true North point, scale, name and address of record owner, sub-divider, and engineer or surveyor, including license number and seal.
- (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
- (3) Zoning District, including exact boundary lines of district, in more than one district, and any proposed changes in the zoning district lines and/or the zoning ordinance text applicable to the area to be subdivided.
- (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of 8 inches or more as measured 3 feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.
- (6) The location of existing sewers, water mains, culverts and drains on the property, with pipe Sizes, grades and direction flow.
- (7) Contours with intervals of 5 feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two feet.
- (8) The width and location of any streets or public ways or places shown on the Official Map or the Comprehensive Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- (9) The approximate location and size of all proposed water lines, valves, hydrants, and sewer lines and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines are also required.
- (10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles and connection to existing lines or alternate means of disposal.
- (11) Plans and cross-section showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.
- (12) Preliminary designs of any bridges or culverts which may be required.
- (13) The proposed lot lines with approximate dimensions and area of each lot.
- (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of

proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and shall provide satisfactory access to an existing public highway or public open space shown on the subdivision or the official map.

(15) An actual field survey of the boundary lines of the parcel being subdivided, giving complete descriptive data by bearing and distances. All corners of the subdivided parcel shall be marked with a permanent iron pin or pipe being not less than ½ inch in diameter and a minimum of 24 inches in length as approved by the Town Engineer, and shall be referenced and shown on the Plat. The plat shall be stamped and signed by a New York State licensed land surveyor.

B. If the application covers only a part of the sub-divider's entire holding, a map of the entire tract, drawn at a scale of not less than 40 feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract. The part of the sub-divider's entire holding submitted shall be considered in the light of the entire holdings.

C. A copy of such covenants or deed restrictions as is intended to cover all or part of the tract.

Section 3 - Major Subdivision Final Plat and Accompanying Data

The following documents shall be submitted for Plat approval:

A. The Plat to be filed with the County Clerk shall be printed upon mylar (plastic) in ink. The size of said sheet shall not be less than 17 inches by 22 inches or larger than 34 inches by 44 inches. The margin of said sheet shall be at least one and one-half (1 ½) inches along the left side for binding and at least one-half (½) inch along the remaining sides. The Plat shall be drawn at the same scale required for the Preliminary Plat and, dependent upon the orientation and size of the subdivided parcel, the north point shall be oriented approximately up or to the right of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

B. A stormwater pollution prevention plan (SWPPP) in conformance with the requirements of the NYS Department of Environmental Conservation (NYSDEC) technical standards and the State Pollution Discharge Elimination System (SPDES) Permit requirements. Additional information can be obtained from the NYSDEC Division of Environmental Permits.

The Plat will show:

(1) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and sub-divider, name, license number and seal of the licensed land surveyor.

(2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.

(3) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the New York State Plane coordinate system, Western zone, and in any event should be tied to reference points previously established by a public authority.

(4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearing shall be given. All dimensions shall be shown in feet and decimals of a foot. The Plat shall show the boundaries of the property, location, graphic scale and true north point.

(5) The Plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made thereof.

(6) All offers of cession and covenants governing the maintenance of unseeded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

(7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.

(8) Permanent reference monuments shall be shown, and shall be constructed in accordance with specification of the Town Engineer. When referenced to the New York State Plane coordinate system, Western zone, they shall also conform to the requirements of the State Department of Public works. They shall be placed as required by the Town Engineer and their location noted and referenced upon the Plat.

(9) All lot corner markers shall be permanently located satisfactorily to the Town Engineer at least three-quarter (3/4) inches (if metal) in diameter and at least 24 inches in length, and located in the ground to existing grade.

(10) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer.

(11) Construction drawings including plans, profiles and typical cross-sections, as required, Showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and sub-base, Manholes, catch basins and other facilities.

ARTICLE VI. DESIGN STANDARDS

Section 1 - Street Layout

A. Width, Location and Construction:

Streets shall be of sufficient width, suitable located, and adequately constructed to conform with the Comprehensive Plan and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

B. Arrangement: The arrangement of streets in the subdivision shall provide for the continuation of

principal streets of adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, or needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

C. Minor Streets:

Minor streets shall be so laid out that their use as through traffic shall be discouraged.

D. Special Treatment Along Major Arterial Streets:

When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

E. Provision for Future Re-Subdivision:

Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these regulations.

F. Dead-End Streets:

The creation of dead-end or loop residential streets will be encouraged wherever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a 20 foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more shall have at least two street connections with existing public streets, or streets shown on the Official Map or streets on an approved Subdivision Plat for which a bond has been filed.

G. Block Size:

Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Board may require the reservation of a 20-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify at its discretion, that a 4-foot wide paved footpath be included.

H. Intersections with Collector or Major Arterial Streets:

Minor or Secondary Street openings into such roads shall, in general be at least 50 feet apart.

I. Street Jogs:

Street jogs with center line offsets of less than 125 feet shall be avoided.

J. Angle of Intersection

In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.

K. Relation to Topography:

The street plan of a proposed subdivision shall bear a logical relationship of the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

L. Other Required Streets:

Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

Section 2 - Street Design

A. Widths of Right-of-Way:

Streets shall have the following widths: (When not indicated on the Comprehensive Plan or Official Map the classification of streets shall be determined by the Board.)

Minimum Right-of-Way - Major Streets: 66 Feet, Collector Streets: 60 Feet, Local Streets: 50 Feet

Minimum Pavement - Major Streets: 24 Feet, Collector Streets: 24 Feet, Local Streets: 20 Feet

B. Improvements:

All streets shall be graded and improvements within any new subdivisions shall match the existing features of the contiguous area or extended where feasible or desirable by the Planning Board. Improvements include asphalt pavements, curbs, gutters, sidewalks, storm drainage facilities, water mains, sewers, street lights and signs, street trees, and fire hydrants, except where waivers may be requested, and the Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Town Engineer. Such grading and improvements shall be approved as to design and specifications by the Town Engineer.

(1) Fire Hydrants: Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.

(2) Street Lighting Facilities: Lighting facilities shall be in conformance with the lighting system of the Town. Such lighting standards and fixtures shall be installed after approval by the

appropriate power company and the authorized Town electrical inspector.

C. Utilities in Streets:

The Planning Board shall, wherever possible, require that under-ground utilities be placed in the street right-of-way between the paved roadway and street line. The sub divider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

D. Easements:

Where topography is such as to make impractical the inclusion of utilities within the street rights-of way, perpetual unobstructed easements of at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.

E. Grades:

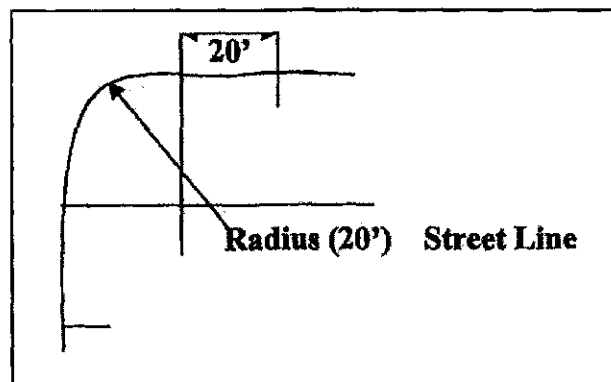
Grades of all streets shall conform in general to the terrain, and shall not be less than one-half (1/2) nor more than 6 percent for major collector streets, or 10 percent for minor streets in residential zones, but in no case more than 3 percent within 50 feet of any intersection.

F. Changes in Grade:

All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer so that clear visibility shall be provided for a safe distance.

G. Curve Radii at Street Intersections:

All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.



Sketch A

H. Steep Grades and Curves; Visibility of Intersections:

A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic

safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown shaded on Sketch A shall be cleared of all growth (except isolated trees) and obstructions above the level of three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

I. Dead-End Streets (Cul-de-Sacs):

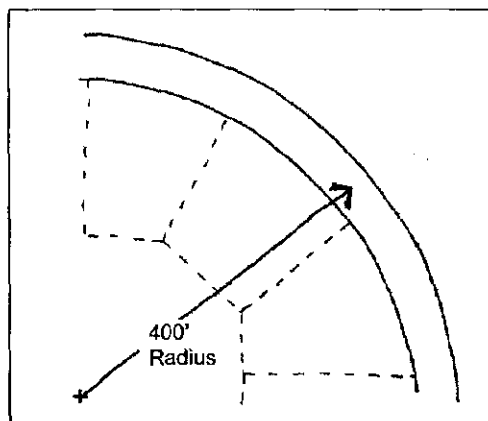
Where dead-end streets are designed to be so permanently, they should, in general, not exceed 500 feet in length, and shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and pavement radius of 50 feet. At the end of temporary dead-end streets a temporary turn-around with a pavement radius of 50 feet shall be provided, unless the Planning Board approves an alternate arrangement. Unless waived by the Planning Board, a center landscaped island shall be provided in the cul-de-sac with a minimum radius of 20 feet. The Planning Board shall review the design of the proposed road with the Highway Superintendent to ensure adequate dimensions for road maintenance vehicles in addition to other larger vehicles.

J. Watercourses:

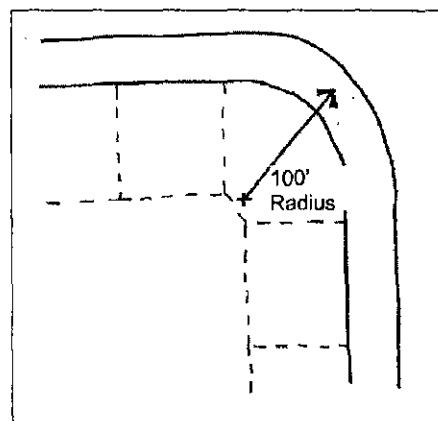
Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.

K. Curved Radii:

In general, street lines within a block, deflecting from each other at anyone point by more than 10 degrees, shall be connected with a curve the radius of which for the center line of street shall not be less than 400 feet on major streets, 200 feet on collector streets and 100 feet on minor streets.



Larger radius, higher speeds.



Smaller radius, lower speeds.

L. Service Streets or Loading Space in Commercial Development:

Paved rear service streets of not less than 20 feet in width, or in lieu thereof, adequate off-street loading space, suitable surfaced, shall be provided in connection with lots designed for commercial use.

M. Free Flow of Vehicular Traffic Abutting Commercial Developments:

In front of areas zoned and designated for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district.

Section 3 - Street Names

A. Type of Name:

All street names shown on a Preliminary Plat or Subdivision Plat shall be reviewed by the Livingston County 911 Center and their local addressing official prior to approval by the Planning Board. In general, streets shall have names and not numbers or letters.

B. Names to be Substantially Different:

Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. (such as a loop street)

Section 4 - Lots

A. Lots to be Buildable:

The lot arrangement shall be such that in constructing a building in compliance with the Zoning Ordinance, there will be no foreseeable difficulties for reasons of topography, or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.

B. Side Lines:

All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule shall give a better street or lot plan.

C. Corner Lots:

In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.

D. Driveway Access:

Driveway access and grades shall conform to specifications of the Town driveway ordinance, if one exists. Driveway grades between the street and the setback line shall not exceed 10 percent.

E. Access from Private Streets:

Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.

F. Monuments and Lot Corner Markers:

Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation, shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the Subdivision Plat.

Section 7 - Drainage Improvements

A. Removal of Spring and Surface Water:

The sub-divider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

B. Drainage Structure to Accommodate Potential Development Upstream:

A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of facility based on anticipated runoff from a "ten year" storm under conditions of total potential development permitted by the Zoning Ordinance in the watershed.

The Town shall share the cost of culverts larger than that which is required to properly service the subdivision.

C. Responsibility from Drainage Downstream:

The sub-divider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Engineer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvements of said condition.

D. Land Subject to Flooding:

Land subject to flooding, as indicated by the FEMA Flood Insurance Rate Maps, or land deemed by the Board to be uninhabitable shall not be platted for residential occupancy, not for such other uses as may increase the danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory the Board to remedy said hazardous conditions.

Section 6 - Parks, Open Spaces, and Natural Features

A. Recreation Areas Shown on Town Plan:

Where a proposed park, playground or open space shown on the Town Plan is located in whole or in

part in a subdivision, the sub-divider shall show such areas on the Plat in accordance with the requirements specified in paragraph (B) below and notify the Town Board. Such area or areas may be dedicated to the Town or County by the sub-divider if the Town Board approves such dedication.

B. Parks and Playgrounds Not Shown on Town Plan:

The Planning Board shall require that the sub-divider reserve sites of a character, extent, and location suitable for the development of a park, playground or other recreational purpose. For a major subdivision, each reservation shall be of an area equal to 5 percent of the total land within the subdivision, but in no case shall a reservation be less than two acres. The area to be preserved shall possess the suitable topography general character, and adequate road access necessary for its recreational purposes.

Where the Planning Board requires land to be set aside for parks, playgrounds, or other recreational purposes, the Board shall require that the site be graded, loamed and seeded and may require it to be fenced.

C. Waiver of Plat Designation of Area for Parks and Playgrounds:

In cases where the Planning Board finds that due to the size, topography, or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or, if in the opinion of the Board it is not desirable, the Board may waive the requirement that the Plat show land for such purpose. The Board shall then require as a condition to approval of the Plat a payment to the Town of \$30 per lot. The amount of land which otherwise would have been acceptable as a recreation site shall be determined in accordance with the standards set forth in Section 6B of this article.

Such amount shall be paid to the Town Board at the time of final Plat approval, and no Plat shall be signed by the authorized officer of the Planning Board until such payment is made. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and improvement Fund to be used for the acquisition of land that (a) is suitable for permanent park, playground or other recreational purposes, and (b) is so located that it will serve primarily the general neighborhood in which the land covered by the Plat lies, and (c) shall be used only for park, playground or other recreational land acquisition or improvements. Such money may also be used for the physical improvements of existing parks or recreation areas serving the general neighborhood in which the land shown on the Plat is situated, providing the Planning Board finds there is need for such improvements.

D. Reserve Strips Prohibited:

Reserve strips of land, which might be used to control access from the proposed subdivision to any neighboring property, or to any land within the subdivision itself shall be prohibited.

E. Preservation of Natural Features:

The Planning Board shall, wherever possible and to the greatest extent feasible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, wetlands, beaches, historic spots, vistas, scenic corridors, and similar irreplaceable assets. No tree with a diameter of 8 inches or more as measured 3 feet above the base of the trunk shall be removed unless such tree is within the right-

of-way of a street shown on the final Subdivision Plat. Removal of additional trees shall be subject to the approval of the Planning Board.

Section 7 – Undeveloped Subdivisions

A. The Planning Board shall investigate, identify and report to the Town Board any subdivision within the Town, which has been filed with the Office of the County Clerk at the time of enactment of this Ordinance, which is an undeveloped subdivision as defined in Article II of these regulations. One copy of such report shall be sent, by certified mail, to the property owner(s) involved, at the address indicated on the subdivision plat or the Town's assessment records, and the owner(s) invited to meet and discuss with the Planning Board the possible redesign and resubmittal of their subdivision to the standards and requirements of these regulations and in accordance with Town Law §265-a. A copy of the report shall also be sent to the Building Inspector and/or Code Enforcement Officer.

ARTICLE VII. VARIANCES AND WAIVERS

Section 1

Where the Planning Board finds that extraordinary and unnecessary hardships result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, Comprehensive Plan, or the Zoning Ordinance, if such exists.

Section 2

Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provisions of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.

Section 3

In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

ARTICLE VIII. ENFORCEMENT, VIOLATION AND PENALTIES

Section 1 -Violation and Penalty

Pursuant to Section 268, Article 16 of the Town Law, a violation of these regulations is declared to be a misdemeanor and is punishable by a fine not exceeding five-hundred (\$500) dollars or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

Section 2 - Enforcement

These regulations shall be enforced by the Building Inspector or Zoning Enforcement Officer of the Town.

**ARTICLE IX.
SEPARABILITY**

Section 1

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not effect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

**CITY OF CANANDAIGUA
ADDENDUM #1
WATER DISTRIBUTION SYSTEMS IMPROVEMENTS
REQUEST FOR ENGINEERING PROPOSALS**

This addendum clarifies the cost center as it relates to the required as-built drawings for the Water Distribution System Improvements Project. Clarification is as follows:

All efforts and costs associated with the creation and supplying as-built drawings to the owner shall be considered to be a function of Project Administration Services. All costs associated with this effort shall be included with this cost center only.

This addendum shall become and considered a part of the Request for Proposals for Engineering Services for the referenced project.

Louis L. Loy, Director of Public Works

January 16, 2009





Prepared by:
The Town of York and



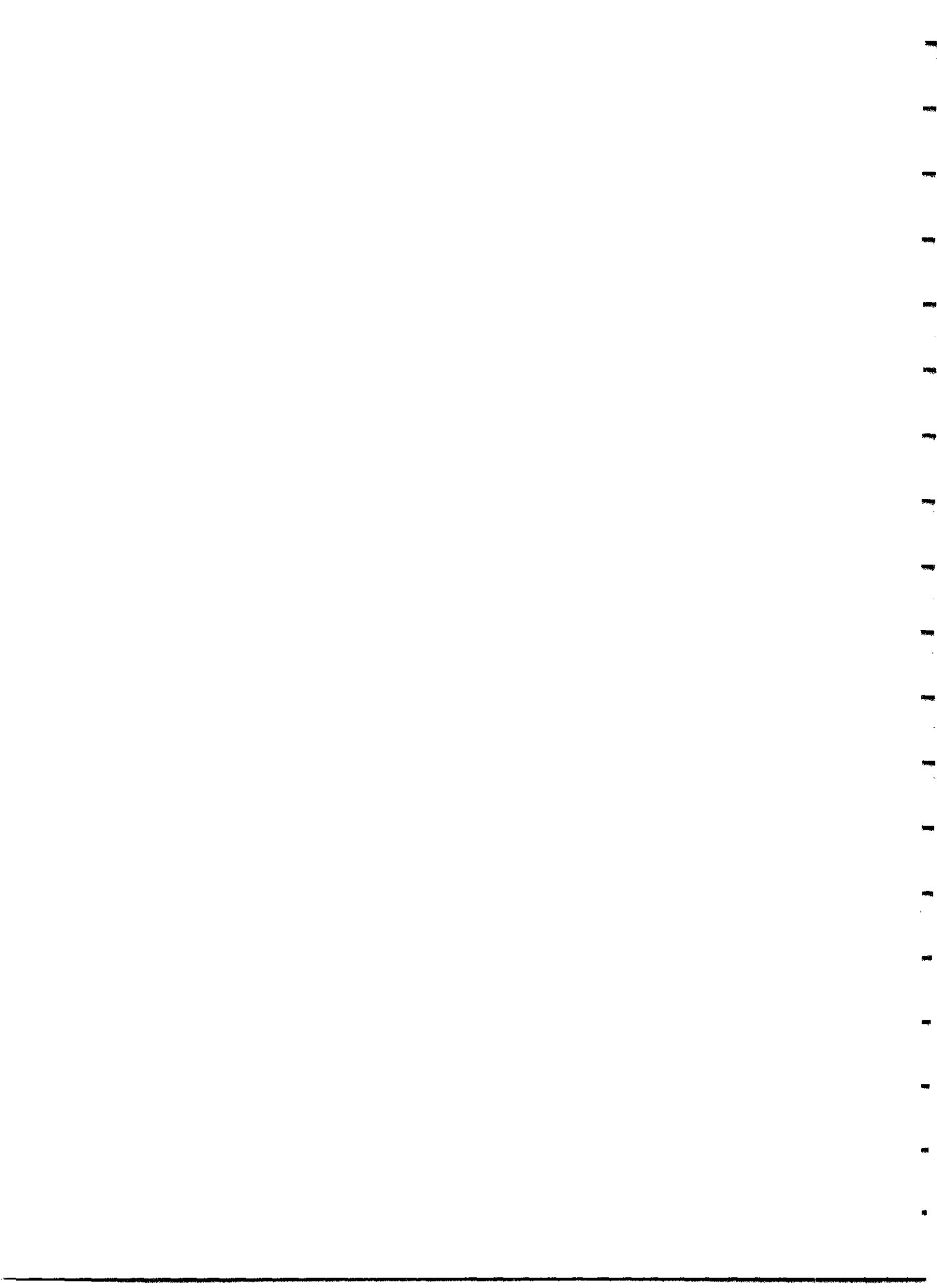
Clark Patterson Lee
DESIGN PROFESSIONALS

www.clarkpattersonlee.com
205 Saint Paul Street
Rochester, New York 14604

Zoning Ordinance
of the
Town of York

Livingston County, NY

Adopted: January 15, 2009



TOWN of YORK ZONING CODE

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Article I. Intent

100. Title

This Chapter shall constitute and be known as "The Zoning Ordinance of the Town of York," New York, and heretofore known as the "York Zoning Ordinance" and may be cited as such.

101. Intent

The intent of this Chapter is to provide for the orderly growth and development of the Town of York in accordance with the Town's recently completed Comprehensive Plan. The zoning regulations found in this Chapter aims to protect the health, safety, and general welfare of the community through the designation and regulation of certain uses to appropriate areas of the Town to:

- A. Balance various forms of development that are desirable by the public while protecting the rural character of the Town;
- B. Protect and encourage farming and agriculture, which is the dominant use in York;
- C. Encourage new development in the existing hamlets in the Town to protect and promote their social and economic well-being;
- D. Protect property values by prohibiting uses, buildings, and structures that are incompatible with the character of the Town and each of its zoning districts;
- E. Lessen and avoid congestion on public streets;
- F. Provide adequate light and air; and
- G. Minimize conflicts among the various land uses, both now and in the future.

This Chapter establishes and implements regulatory powers consistent with Article 16 of the NYS Town Laws and has been made with reasonable concern for the character of each of the districts hereby established in accordance with the Town's Comprehensive Plan or any other development policy adopted by the Town. To that end, this Chapter shall:

- A. Divide the entire Town into districts of such number, size, and shape, according to the use of the land, intensity of use of each lot, the amount of open space required and other classifications that may be deemed best suited to regulate development;
- B. Regulate and limit the height, bulk, and location of any buildings or structures;
- C. Establish, regulate, and limit the building or setback lines on or along streets in the Town;
- D. Determine the area of yards, courts, and other open space within and surrounding buildings;
- E. Provide for variances from such regulations, standards, restrictions, and limitations if any such regulation causes undo hardship and causes no negative impacts to the community; and
- F. Provide administrative bodies and procedures necessary to implement and enforce the various provisions of this Chapter.

102. Applicability

This Chapter shall apply to all structures, land, and uses within the limits of the Town of York, New York. All buildings and structures erected, altered, or relocated; uses of land or buildings established; and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this Chapter which are applicable to the zoning districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses that do not comply with the regulations of this Law shall be allowed to continue subject to the provisions of Article VII relating to nonconformities.

103. Date Effective

This Chapter shall become effective 30 days from the date of adoption. Except as specified in any subsequent amendments to this Chapter, the “effective date” shall be _____. The Town of York Zoning Ordinance dated June 16th, 1969, is hereby repealed in its entirety.

104. Severability

The provisions of this chapter shall be separable in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, such judgment shall not affect any other provision of this chapter.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure.

105. Previously Issued Variances and Permits; Construction/Alterations

- A. Variances and Special Use Permits. Any variance or special use permit lawfully issued prior to the effective date of this Chapter, or any amendment thereof, which could be lawfully issued pursuant to the provisions in effect after such effective date, shall be deemed to be and continue valid after such effective date. Any structure or use lawfully authorized by any such variance or special use permit that could not be so issued after such effective date shall be allowed to continue subject to the provisions of Article VII dealing with lawfully existing nonconformities.
- B. Constructions/Alterations. Any construction or alteration of a building or structure which has not yet obtained a certificate of occupancy but which has commenced construction at least 90 days before the effective date in accordance with a valid building permit shall be allowed to complete construction. If such building or use is not in conformance with the regulations of this chapter it shall be subject to the provisions of Article VII relating to nonconformities.

106. Pending Applications

Any complete application, pursuant to Article VIII, §804.C, submitted prior to the effective date of the adoption of this Chapter or any subsequent amendment thereto shall proceed under the regulations in place at the time such application was deemed complete.

Article II. Definitions

200. Word Usage and interpretation

For the purposes of this chapter, all terms used in the present tense include the future tense. All terms in the plural number include the singular number, and all terms in the singular number include the plural number, unless the natural construction of the term indicates otherwise.

- A. The term "person" includes a firm, association, organization, partnership, trust, company or individual.
- B. The term "shall" is mandatory and directory.
- C. The term "may" is permissive.
- D. The term "used" includes the terms "designated, intended or arranged to be used."
- E. A building or structure includes any part thereof.

201. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

Accessory Building or Use – An accessory use or structure that is subordinate to the principal building or use in area, extent, and purpose and is located on the same lot as the principal building unless expressly stated by the provisions of this Chapter.

Accessory Dwelling Units – A secondary residential dwelling unit that may be contained within an existing single-family dwelling unit or a detached structure on the same lot as the principal building and may have independent access and utilities.

Accessory Facility - Any facility or structure serving or being used in conjunction with a telecommunications tower and located on the same lot as the telecommunications tower. Examples of such facilities include transmission equipment and storage sheds, buildings or cabinets.

Adult Uses – Any activity or business which provides sexual entertainment services or materials to customers with an emphasis on matter depicting or relating to specified sexual activities or specific anatomical areas and customarily excludes minors by reason of age. Adult uses include: X-rated video stores and bookstores, live or video "peep" shows, topless or fully nude dancing establishments, combination video/book stores, non-medical message parlors, hourly motels, swingers clubs, X-rated movie theaters, escort service clubs, or any combination or variation thereof.

Agri-business – Any business which is designed to directly support or engaged in the production operations of an agricultural operation, the manufacture or distribution of farm equipment and supplies, or the processing, storage, and distribution of farm commodities. Agri-businesses may include: Farm Markets, Agritourism, and Direct Marketing businesses associated with agriculture.

Agricultural or Farm Operation(s) – The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing

of crops, livestock, and livestock products as a commercial enterprise on one or more parcels or owned or rented land, which may be contiguous or noncontiguous to each other. Commercial horse boarding and timber processing may be considered a farm operation subject to Section 301, Article 25AA of the NYS Agriculture and Markets Law. (Ref: NYS Ag & Markets Law)

Alteration – Any construction or renovation to an existing structure other than repair or addition.

Animal Hospital – A facility that provides medical care to animals which is run by a Doctor of Veterinary Medicine (DVM). Animals may be kept in the facility during the recovery period of while under medical treatment only.

Antenna(e) - A system of electrical conductors that transmit or receive electronic frequency signals. Such signals shall, include but not be limited to radio, television, cellular, paging and personal communication services (PCS).

Automotive Sales – The sales or leasing of new or used automobiles, motorcycles, trucks, and recreational vehicles, which includes storage and any incidental maintenance.

Automotive Service Station – Establishments used or intended for use of one or any combination of the following activities:

1. Retail dispensing of motor vehicle fuels.
2. Retail dispensing of liquids, coolants, or lubricants where substantial disassembly is not required.
3. Engine tune-ups, body work, frame straightening, painting, electrical work, transmission repair, or any other repair services not specifically listed.

Vehicle dismantling for the resale of salvaged parts, including tires, is not including in this definition (see *Junkyard*).

Bank Earth Products – Stone, aggregate, mulches, topsoil, and other earth products that are processed from other natural materials to be used for construction, landscaping, and other similar purposes. These materials are typically stored in bulk and offered for sale by the industry which processes the material or transported to an alternate location, which does not process the material, for commercial sale.

Bed & Breakfasts – An owner-occupied residence resulting from a conversion of a single-family dwelling, used for providing overnight accommodations and a morning meal to not more than ten transient lodgers and containing not more than five bedrooms for such lodgers. (Ref: NYS Uniform Code)

Boarding Houses – A building or premises where not less than five or no more than 10 unrelated persons are furnished sleeping accommodations or lodged for a fee for temporary or seasonal occupancy. Meals may be regularly served in a common dining area. (Ref: NYS Uniform Code)

Bulk Fuels – An establishment or portion of a property whereby flammable or combustible are received by tank vessel, pipelines, tank car or tank vehicle and are stored or blended in bulk for the purpose of distributing liquids or gases by tank vessel, pipeline, tank car, tank vehicle, portable tank or container. (Ref: NYS Uniform Code)

Building & Construction Materials – Establishments which specialize in the retail sale of new building and construction materials and related supplies; general home repair and improvement materials

and supplies are excluded. Establishments in this sector may have display equipment designed to handle lumber and related products and supplies that may be kept either indoors or outdoors under covered areas. (Ref: 2002 NAICS US Census)

Business Park(s) – An area of land in which a collection of more than one non-industrial business is located.

Car Wash – Any building or premises, or portion thereof, the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

Church – A facility intended as a gathering place for organized religious worship and related activities.

Clubs & Lodges – Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests.

Code Enforcement Officer – The officially designated Code Enforcement Officer for the Town of York with the duties and responsibilities identified in Article VIII of this Chapter.

Coniferous – A plant with foliage that persists and remains green year-round. Also known as “evergreen.”

Dance, Art, or Music Studio – Establishments or work space dedicated to artists, artisans, musicians, dancers, or other individuals practicing one of the fine or performing arts or skilled in an applied art or craft. Incidental retail sales of work produced on the premises may be included.

Day Care Operations – Any program or facility caring for children for more than three hours per day per child in which child day care is provided by a licensed child day care provider except those programs operating as a group family day care home, a family day care home, and a school-age child care program as defined by §390.1 of the Social Services Law of the State of New York. (Ref: NYS Social Services Law)

Deciduous – A plant with foliage that is shed annually.

Drive-thru Facilities - A use or portion of a use which by design of physical facilities or by service or packaging procedures encourages or permits customers to receive a service or obtain a product which may be consumed or used in a motor vehicle on the premises or off-premises.

Dry Cleaning Outlets –Facilities which provide drop-off and pickup of garments and other textile items for dry cleaning services off-site. (Actual dry cleaning services are not performed on site.) Dry cleaning outlets do not include any coin-operated facilities.

Dry Cleaning Operations – Facilities which provide on-site specialty cleaning services for specific garments and textile items, except carpets and upholstery.

Dwelling - Any building or structure, or part thereof, used and occupied for human habitation, or intended to be so used, and includes any appurtenances belonging thereto.

Dwelling, Multi-Family – A building or portion thereof which contains three or more dwelling units designed or used for occupancy by three or more families living independently of each other.

Dwelling, Single-Family – A dwelling unit designed for and occupied by not more than one family and surrounded by open space or yards and having no roof, wall or floor in common with any other dwelling unit. A modular home, by definition of the NYS Uniform Code, is considered a single-family dwelling.

Dwelling, Two-Family – A building containing two dwelling units and used or intended to be used exclusively for occupancy by two families living independently of each other, or two single-family dwellings having a party wall in common.

Dwelling Unit – One room, or a group of rooms joined to each other and not regularly locked, located in a dwelling, designed and maintained as a unified living quarter, occupied by a family, containing integrated facilities used for living, sleeping, cooking, eating and sanitation.

EAF – Environmental Assessment Form. The official form used by an agency to assist it in determining the environmental significance or nonsignificance of actions in compliance with SEQRA. An EAF may consist of the Short or Full EAF as detailed in §617.6 of the Environmental Conservation Law.

Eating and Drinking Establishments - Businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises. Eating and drinking establishments includes fast-food or drive thru, full service, and take-out only restaurants.

Educational/recreational Camps – A program that offers access to organized recreational and educational facilities and activities for a limited period of time and may include simple group accommodations, such as tents or small cabins, that are erected for temporary residence.

Environmentally Sensitive Area – Areas that include features such as steep slopes, wetlands, riparian areas, and other unique habitats.

Flicker Zone – An area that will experience the flicker effect from a wind turbine. The flicker effect is produced when sunlight shines behind the wind turbine and, as the blades rotate, causes intermittent sunlight and shadows.

Food Processing & Packing Plants –Facilities which transform and process livestock and agricultural products into products for eventual consumption and package the processed goods for distribution to wholesalers or retailers.

Fuel sales – Establishments which sell automotive fuels (e.g. gasoline, diesel fuel, bio-diesel, and ethanol/gasohol) from specialized equipment for the storage and dispensing of fuels.

Funeral Homes – A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Frost Line – In the Town of York, the frost line is hereby defined to be forty-two inches (42") below the final grade surface of the ground.

General Business – Private uses which provide goods and services to the general public for a profit.

Golf Course – A public or private recreation establishment having no fewer than nine (9) holes improved with tees, greens, fairways, and hazards for playing the game of golf. Miniature golf and driving ranges are excluded.

Greenhouse(s) – An enclosed structure, typically constructed of glass or plastic, in which agricultural or horticultural stock is grown in climate-controlled conditions and protected from outside elements.

Health Clubs – An establishment in which members use health and fitness facilities and equipment, and includes any outdoor equipment or facilities owned by the establishment.

Home Occupation – An accessory use which:

1. Is clearly incidental and an accessory use to the dwelling unit used for residential purposes.
2. Can be conducted without substantial change in the appearance, character, or traffic generation of the residence.
3. Is carried on by a member of the household residing in the dwelling unit.
4. Does not include retail sales to customers or motor vehicle repairs on the premises.

Horticultural Uses – Any land or structures, including greenhouses, used for the commercial production, sale, or research of vegetative products.

Household Pets - Small, domesticated animals or fish kept for pleasure and not for utility or commercial purposes. Pets include animals such as, but not limited to, dogs, cats, pot-bellied pigs, hamsters, non-venomous snakes, fish and non-fowl birds (not raised for meat or eggs).

Industrial Agricultural Enterprises – A large scale business activity that specializes in a specific aspect of agriculture or farming and uses specialized equipment and buildings. The raising of livestock or processing of agricultural products such that the use of land and agricultural products grown on the premises is typically subordinate.

Industrial Center – A collection of various industries which may or may not be related to one another that deal with a specific manufacturing enterprise or trade.

Junk Yard - A lot, land or structure or part thereof used for the storage or sale of waste paper, scrap metal or discarded materials; or, for the collecting, dismantling, storage, salvaging of machinery and vehicles not in running condition and for the sale of parts thereof.

Kennel - A lot, parcel of land, or building where four but no more than 20 household pets more than four months of age are kept, whether by owners of the pets or by persons providing facilities and care, whether or not for compensation, but not including a small animal hospital, clinic or pet shop.

Landfill Operations – All contiguous land, structures, and operations used for the transfer, storage, or disposal of refuse, rubbish, or waste in compliance with the York Landfill Ordinance (1971) and the Solid, Industrial, and Hazardous Waste Management regulations (1989).

LEED-certified – A building or site that is classified as meeting certain building and construction standards set forth by the U.S. Green Building Council (USBGC) Leadership in Energy and Environmental Design (LEED).

Livestock – Any domestic animal with hooves, such as cattle, horses, donkeys, mules, burros, sheep, hogs or goats of greater than three months' age.

Lodging – A single building or group of buildings containing guest rooms or apartments, with parking space or such rooms or apartments, which is primarily designed for the accommodation of transient travelers and does not contain individual cooking facilities. Lodging facilities may also

provide additional services to guests, such as food and beverages, limited recreational facilities, conference rooms, and laundry. Hotels and motels are considered lodging.

Lot – A tract of land under single ownership and occupied by, or designated to be developed for, a building and its accessory buildings, or a principal use, together with such open spaces and yards as are designed and arranged, or required under this Chapter, to be used with such buildings or use. Also known as a “parcel.”

Lot coverage – The amount of impervious surface allowed on a lot or parcel in accordance with the dimensional requirements found in Article IV.

Manufactured Home - A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), *Manufactured Home Construction and Safety Standards*, 24 CFR Part 3208, 4/1/93, transportable in one or more sections, which in traveling mode, is 8 feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, HVAC, and electrical systems therein. The term “manufactured home” shall not include any self-propelled recreational vehicle. Manufactured homes shall also include single-wide manufactured homes as a part of this definition.

Manufactured Home, Double-wide - A manufactured home consisting of two sections, combined at the site, with a combined width of no less than 20 feet, while still retaining their individual chassis for possible future movement and complying with the federal requirements specified in the “Manufactured Home” definition. This definition does not include modular homes.

Manufactured Home Community - As used in this ordinance, a manufactured home community shall be defined as any lot, piece, or parcel of ground whereon more than two (2) mobile/manufactured homes are placed, are designed for such placement, and whether a charge is or is not made for such use. May also be referred to as a “mobile home park.”

Manufacturing – Any non-residential establishment which is engaged in the process of physical, mechanical, or chemical transformation of materials, substances, or components into new products or the assembling of manufactured components into a finished or semi-finished product.

Mixed Use – A development or redevelopment that allows for more dense development in a single building or on a single lot and includes a mixture of uses including, but not limited to, two or more of the following: residential, commercial and industrial.

Mobile Home - A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI, or a specific state standard, transportable in one or more sections, which in the traveling mode, is 8 feet or more in width or 40 feet or more in length, or when erected on site, is 320 square feet minimum, constructed on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, HVAC, and electrical systems therein. The term “mobile home” shall not include travel trailers or any self-propelled recreational vehicle.

Modular Home - A factory-manufactured dwelling unit, conforming to applicable provisions of the NYS Uniform Code and bearing insignia of approval issued by the State Fire Prevention and Code Council, which is constructed by a method or system of construction whereby the structure or its

components are wholly or in substantial part manufactured in a manufacturing facility, intended or designed for permanent installation, or assembly and permanent installation.

Municipal Attorney – The officially designated attorney for the Town of York. Also referred to as the “Town Attorney.”

Municipal Engineer – The officially designated professional engineer for the Town of York. Also referred to as the “Town Engineer.”

Municipal Uses – Administrative, clerical, or public offices or buildings of a government agency (local, County, State, or Federal), including postal facilities, together with incidental storage or accessory uses/buildings.

Natural Resources Conservation – The protection, preservation, management, or restoration of wildlife and natural resources such as forests, soils, and water.

Nonconforming Building or Structure – A building or structure that does not conform to the regulations of the district in which it is located upon the effective date of this Chapter. Nonconforming buildings and structures are subject to Article VII.

Nonconforming Use - An established use of a building or structure or of land lawful prior to and at the time of adoption of this Chapter that does not conform to the permitted uses specified in this Chapter for the district in which it is located. Nonconforming uses are subject to Article VII.

Nursing Homes – Establishments or uses which provide care, nursing, and rehabilitative services for individuals requiring nursing care and are staffed with registered or licensed medical professionals. Nursing homes may be private or State certified.

NYS Uniform Code(s) - The New York State Uniform Fire Prevention and Building Code, which shall include all subunits (Residential Code, Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Fire Code, and Property Maintenance Code) as currently in effect and as hereafter amended from time to time. The Uniform Code shall also be referred to as the “NYS Uniform Code.”

Office – Offices of firms or organizations providing professional, executive, management, or administrative services, such as those listed in the “Professional Services” definition.

Open Space – That portion of a lot which is open, unobstructed and unoccupied from the ground upward and includes permeable walkways not used by vehicles, landscaping, uncovered patios, and uncovered recreation facilities.

Outdoor Furnaces - Any EPA-certified equipment, device or apparatus, or any part thereof, which is installed, affixed, or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

Outdoor Storage – The storage of items, merchandise, materials, or vehicles outside of an enclosed structure for more than four (4) consecutive days that are not being displayed for sale.

Park Unit - As used in this ordinance, a park unit shall be defined as the lot or space in any manufactured home community which shall be assigned to, or used and occupied by any one mobile/manufactured home.

Patio Homes – One of two single-family dwellings, each on a separate lot with open space on three (3) sides.

Personal Service – Places primarily providing services oriented to personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pick-ups, shoe shine parlors, and other similar establishments. Retail sales shall be allowed as incidental uses in personal service establishments.

Planning Board - The officially established Planning Board of the Town of York with the duties and responsibilities identified in Article IX of this Chapter.

Principal Building – A building in which is conducted the main or principal use of the lot on which said building is located.

Professional Services – Individuals or organizations that provide specialized services, including, but not limited to, medical practitioners, attorneys, architects, engineers, photographers, brokers, and other similar services. This classification excludes hospitals, banks, and savings and loan associations.

Property Line - The lines bounding a lot. Also known as a “lot line.”

Quarry – Any operation involving excavating, grading, filling or removal of earth, sand, gravel, soil, minerals, loam, fill, clay, peat moss, and other earth products which is not incidental to the issuance of a building permit in conformance with the NYS Uniform Code, and the transportation on land or roads, public or private, in the Town of York of any such products from the site of such an operation. Formerly known as “bank earth products excavations.”

Recycling Centers –Facilities used for the receiving, temporary storage, or transfer of materials for recycling or reuse. Junkyards are excluded from this definition. Recycling centers may also include ancillary sales of recycled materials.

Research & Development – A building or groups of buildings in which are located facilities for scientific research, investigation, materials testing, or experimentation, but not facilities for the manufacture or sale of products.

Retail – The sale of goods, articles or consumer services individually or in small quantities directly to the consumer.

Right-of-way Line – The boundary of a road, street, highway, or expressway owned and maintain by a public entity (e.g. Town of York Highway Dept., NYS Department of Transportation, etc).

Riparian area – An area of land that is adjacent to a stream, river, creek, or wetland that contains vegetation that is distinctly different from the vegetation located in adjacent upland areas.

Self-storage Facilities – One or more one-story buildings intended for use by the public and operated as a business for short-term self-storage of personal items.

SEQRA – State Environmental Quality Review Act as defined in NYCRR Part 617.

Setback - The least required horizontal distance between the edge of the right-of-way, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, excluding steps.

Shopping Plazas – Two or more separate commercial buildings that are located on a single or adjacent lot, or two or more buildings developed as part of a single integrated development that provide a wide range of retail and/or service uses, typically with a common architectural design. Also known as “malls,” “retail centers,” and “plazas.”

Signs:

A-Frame – A portable sign with two or more steeply angled sides. Also known as a “sandwich board” sign.

Awning & Canopy – Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protective cover over a door, entrance, window or outdoor service area.

Digital Message – A sign which only displays a message or various messages in a digital format.

Freestanding – A sign supported by one or more upright poles, columns or braces placed in or on the ground and not attached to any building or structure. These also include monument signs, which are constructed at grade with a continuous foundation.

Portable – A sign, whether on its own trailer, wheels or otherwise designed to be mobile, whose primary use is a sign for advertisement, and not structurally attached to the ground, a building, a structure or another sign. This excludes signs painted on and incidental to a vehicle.

Projecting – Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure more than 18 inches. Also known as a “perpendicular sign.”

Suspended – A sign attached to and supported by the underside of a horizontal plane. Also known as a “hanging sign.”

Temporary – A sign that is not permanently affixed and is limited to a specific timeframe specified in Article V, §517 of this Chapter.

Wall – Any sign attached to, erected, or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign.

Window & Door – A non-electric sign visible from a sidewalk, street or other public place, painted or affixed to the interior or exterior of a door or window for the purposes of being viewed from outside the premises. This term does not include graphics in connection with merchandise located in a window.

Small Wind Energy Conversion System – A wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics, which has a rated capacity of not more than 100kW and which is intended to primarily reduce on-site consumption of utility power. Also referred to as “Small WECS.”

Sound Pressure Level - The level which is equaled or exceeded a stated percentage of time. A L10-50dBa indicates that in any hour of the day 50 dBa can be equaled or exceeded only ten percent (10%) of the time, or for six (6) minutes. The measurement of the sound pressure level can be done in accordance with the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11) or other accepted procedures.

Special Use Permit – An official approval for uses that are permitted in a district, but require certain standards to be met prior to approval in order to protect the surrounding area from any potentially adverse impacts. Also referred to as “SUP.”

Stack or Chimney - Any vertical structure enclosing a passageway that carries off smoke or exhaust from an outdoor furnace, including that part of the structure extending above a roof.

Telecommunications Facility - Telecommunications towers, antenna(e) and accessory facilities used in connection with the provision of radio, television, cellular telephone, PCS, paging and similar services.

Telecommunications Tower or Tower - A structure on which transmitting and/or receiving antenna(e) are located. It includes, without limit, freestanding towers, guyed towers, mono poles and other similar structures.

Terminal Facilities – A facility which is used for the transfer goods or materials from one form of transportation to another (i.e. from a tractor-trailer to a home delivery truck). The transfer of goods or materials is typically done within an enclosed structure.

Theaters – A building or facility used for dramatic performances or the viewing of motion pictures.

Total Height – The height of a Wind Energy Conversion Device as measured from the base of the tower to the tip of the rotor blade in its most vertical position.

Town Code – The local laws, ordinances, rules, certain resolutions, and regulations of the Town of York that are collectively known as the “Code of the Town of York”, and hereafter referred to as the “Town Code.”

Townhomes – One of a series of single-family dwellings connected by common party walls and forming a continuous group of homes.

Tractor - A motor vehicle designed and used as the power unit in combination with a semitrailer or trailer, or two such trailers in tandem. Any such motor vehicle shall not carry cargo except that a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit. (Ref: NYS Vehicle and Traffic Law §151a.)

Trailer - Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in this section, except motor vehicle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

Untreated lumber - Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance.

Value added product - The increase in the fair market value of an agricultural product resulting from the processing of such product.

Variance, Area – The authorization of the Zoning Board of Appeals for the use of land which is not allowed by the dimensional or physical requirements set forth in this Chapter. Procedures and criteria for use variances are found in Article IX, §902.

Variance, Use – The authorization of the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or prohibited by this Chapter. Procedures and criteria for use variances are found in Article IX, §902.

Viewshed – An area within range of vision in any direction from a particular site or location.

Warehouse – A building, typically enclosed, designed or used for the storage of commodities.

Wind Energy Conversion System (WECS) – A machine that converts the kinetic energy in the wind to a usable form. The WECS consists of a tower; a nacelle, which houses the various mechanical components including the generator, gears, drive train, and/or braking system; and the turbine blades. Also known as a “windmill” or “wind turbine.”

Wind Energy Facility – Any WECS, Small WECS, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads, and accessory structures.

Wind Measurement Tower – A tower used for the measurement of meteorological data such as, but not limited to, temperature, wind speed, or wind direction. Also known as “Meteorological Towers” or “MET Towers.”

Wholesale Business – A business that deals with the buying or selling or arranging for sale of goods or commodities, usually in bulk, for purchasers other than individual customers, to include offices, freight distribution centers, large storage facilities and the use of delivery trucks in the routine operation of the business.

Yard - An open space on the same lot with a building or structure.

Zoning Board of Appeals – The officially established Zoning Board of Appeals of the Town of York with the duties and responsibilities identified in Article IX of this Chapter. Also referred to as “Zoning Board” or “Board of Appeals.”

Zoning Permit - An official finding that a planned use of property, as indicated by an application, complies with the requirements of this Chapter or meets special conditions of a variance or special use permit.

Article III. Zoning Districts

300. Creation of Zoning Districts

For the purpose of promoting the public health, safety and general welfare of the Town of York, the Town is hereby divided into the following zoning districts:

A	Agricultural
R	Residential
HR	Hamlet Residential
HDR	High Density Residential
HC	Hamlet Commercial
C	Commercial
MU	Mixed Use
LI	Light Industrial
I	Industrial
PD	Planned Development
AUO	Adult Use Overlay

301. Zoning Map

Said zoning districts are bounded as shown on the map entitled "Zoning Map of the Town of York," adopted by the Town Board and including all subsequent amendments duly adopted by the Town Board. The Zoning Map shall be on file in the Office of the Town Clerk. The Zoning Map, with all explanatory materials, is hereby made a part of this Code.

302. Interpretation of District Boundaries

Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow or run parallel to the center lines of streets, the center lines of railroad rights of way, existing lot lines, the mean water level of streams and other waterways, all as shown on the Zoning Map.

In case of uncertainty as to the true location of a zoning district boundary line in a particular instance, the Code Enforcement Officer shall request the Zoning Board of Appeals to render a determination.

Article IV. Zoning District Regulations

400. Agricultural District (A)

- A. Purpose. The purpose of the Agricultural (A) District is to preserve large tracts of farmland in areas designated in the 2006 Town Comprehensive Plan. The Agricultural District is established to protect the rural landscape by ensuring the long-term viability of the farming industry and agricultural economy. This District provides for uses compatible with and supportive of agriculture, while limiting residential and non-agricultural development to minimize conflicts between agricultural and non-agricultural uses. Conservation of prime agricultural and state significant soils is encouraged in this District, and non-agricultural development is expected to be directed away from areas containing prime agricultural soils.
- B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.
- (1) Agricultural operations
 - (2) Agri-business
 - (3) Farm ponds
 - (4) Greenhouses
 - (5) Horticultural uses
 - (6) Single-family dwellings
 - (7) Accessory Uses
 - (8) Farm Markets and Farm Stands
- C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:
- (1) Industrial agricultural enterprises
 - (2) Parks & Recreation
 - (3) Golf courses
 - (4) Animal hospitals
 - (5) Kennels
 - (6) Cemeteries
 - (7) Educational/recreational camps
 - (8) Public & municipal uses
 - (9) Quarries and excavation facilities
- D. Lot Size. Minimum 3 acres.
- E. Lot Frontage. Minimum 250 feet.
- F. Lot Coverage. Maximum 25%.

G. Minimum Setbacks.

- Front – 50 feet
- Side – 15 feet
- Rear – 50 feet

H. Height. Maximum 35 feet, but no height limit on farming-related structures.

401. Residential District (R)

- A. Purpose. The purpose of the Residential (R) District is to encourage low density residential development in areas designated in the 2006 Town Comprehensive Plan. The Residential District provides for the orderly development of primarily single-family dwellings outside of the more concentrated hamlet areas. The Residential District is intended for areas with access to public utilities, and in close proximity to non-residential uses, including commercial or service centers. Development in Residential Districts will promote suitable placement of buildings and accessory structures in relation to the site and surrounding areas, in order to minimize the potential for loss of productive agricultural resources and the disruption of environmentally sensitive areas.
- B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.
- (1) Agricultural operations and all related uses, excluding Industrial Agricultural Operations
 - (2) Single-family dwellings
 - (3) Two-family dwellings
 - (4) Churches
 - (5) Home Occupations
 - (6) Accessory Uses
- C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:
- (1) Parks & Recreation
 - (2) Public & municipal uses
 - (3) Day care operations
 - (4) Boarding houses
 - (5) Bed & breakfasts
- D. Lot Size. Minimum 40,000 square feet
- E. Lot Frontage. Minimum 100 feet; Minimum 150 feet for sites along Routes 36 and 63
- F. Lot Coverage. Maximum 40%

G. Minimum Setbacks.

- Front – 40 feet; 60 feet for sites along Routes 36 and 63
- Side – 15 feet
- Rear – 50 feet

H. Height. Maximum 35 feet

402. Hamlet Residential District (HR)

A. Purpose. The purpose of the Hamlet Residential (HR) District is to encourage a compact pattern of residential development in areas designated in the 2006 Town Comprehensive Plan. The Hamlet Residential District is established to protect and promote the convenience and character of traditional town centers including hamlets and immediate surrounding areas. This District provides for residential infill development with a variety of housing types. The Hamlet Residential District is intended for areas that have access to public utilities, are generally located close to major transportation routes/intersections, and have direct access to commercial uses as well as town services and facilities.

B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.

- (1) Single-family dwellings
- (2) Two-family dwellings
- (3) Townhomes
- (4) Patio homes
- (5) Churches
- (6) Home Occupations
- (7) Accessory Uses

C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:

- (1) Parks & Recreation
- (2) Public & municipal uses
- (3) Day care operations
- (4) Boarding houses
- (5) Bed & breakfasts

D. Lot Size. Minimum 10,000 square feet.

E. Lot Frontage. Minimum 80 feet.

F. Lot Coverage. Maximum 40%.

G. Minimum Setbacks.

- Front – 30 feet, or the average of the existing setbacks on adjacent properties
- Side – 15 feet/30 feet
- Rear – 30 feet

H. Height. Maximum 35 feet.

403. High Density Residential District (HDR)

- A. Purpose. The purpose of the High Density Residential (HDR) District is to encourage high density residential development in areas designated in the 2006 Town Comprehensive Plan. The High Density Residential District is established to provide mixed or multifamily residential development, including apartments, townhomes, and mobile homes. The High Density Residential District is intended for areas with access to public utilities, and in close proximity to non-residential uses, including commercial or service centers. The developments in this District are expected to meet certain design and site planning requirements in order to create an orderly transition between residential and commercial areas.
- B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.
- (1) Two-family dwellings
 - (2) Multi-family dwellings
 - (3) Townhomes
 - (4) Patio homes
 - (5) Churches
 - (6) Manufactured Home Communities
 - (7) Home Occupations
 - (8) Accessory Uses
- C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:
- (1) Parks & Recreation
 - (2) Public & municipal uses
 - (3) Day care operations
 - (4) Boarding houses
 - (5) Nursing homes
 - (6) Bed & breakfasts
- D. Lot Size. Minimum 10,000 square feet.
- E. Lot Frontage. Minimum 60 feet.
- F. Lot Coverage. Maximum 40%.

G. Minimum Setbacks.

- Front – 30 feet, or the average of the existing setback on adjacent properties
- Side – 15 feet
- Rear –30 feet

H. Height. Maximum 35 feet.

404. Hamlet Commercial District (HC)

A. Purpose. The purpose of the Hamlet Commercial (HC) District is to foster small-scale, mixed use areas designated in the 2006 Town Comprehensive Plan. The Hamlet Commercial District is established to provide a dense concentration of activity with convenient shopping and services integrated with work places, civic institutions, educational facilities, and a mix of housing types. This District encourages compact, pedestrian-oriented development and preservation of traditional historic character.

B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.

- (1) Two-family dwellings
- (2) Multi-family dwellings
- (3) Retail & office
- (4) Professional services
- (5) Clubs & lodges
- (6) Lodging
- (7) Theaters
- (8) Dance, art, or music studio
- (9) Health clubs
- (10) Public & Municipal buildings
- (11) Accessory uses

C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:

- (1) Mixing of uses
- (2) Eating establishments
- (3) Drinking establishments
- (4) Automotive Sales
- (5) Automotive Service Station
- (6) Fuel sales
- (7) Car wash
- (8) Drive thru facilities

(9) Outdoor storage

(10) Recreation

D. Lot Size. Determined through Site Plan Review.

E. Lot Frontage. Determined through Site Plan Review.

F. Lot Coverage. Determined through Site Plan Review.

G. Minimum Setbacks.

- Front – Determined through Site Plan Review.
- Side – Determined through Site Plan Review.
- Rear – Determined through Site Plan Review.

H. Height. Maximum 35 feet.

405. Commercial District (C)

A. Purpose. The purpose of the Commercial (C) District is to encourage commercial development in areas designated in the 2006 Town Comprehensive Plan. The Commercial District is established to provide areas for intensive commercial activities that primarily depend upon a large volume of vehicular traffic and serve the daily shopping needs of the community. This District encourages controlling access to commercial areas from the main routes of travel to minimize conflicts between local residents and heavy truck traffic.

B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.

- (1) General business
- (2) Retail & office
- (3) Professional services
- (4) Personal services
- (5) Clubs & lodges
- (6) Lodging
- (7) Theaters
- (8) Dance, art, & music studio
- (9) Municipal buildings
- (10) Car wash
- (11) Dry cleaning outlets
- (12) Fuel sales
- (13) Drive-thru facilities
- (14) Self-storage facilities
- (15) Funeral homes

- (16) Animal Hospitals
- (17) Health club
- (18) Outdoor entertainment
- (19) Accessory Uses

C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:

- (1) Automotive Sales
- (2) Automotive Service Stations
- (3) Eating establishments
- (4) Drinking establishments
- (5) Outdoor storage
- (6) Parks & Recreation
- (7) Kennels

D. Lot Size. Minimum 40,000 square feet.

E. Lot Frontage. Minimum 150 feet.

F. Lot Coverage. Maximum 70%.

G. Minimum Setbacks.

- Front – 50 feet
- Side – 25 feet/50 feet from any residential district boundary
- Rear – 25 feet/50 feet from any residential district boundary

H. Height. Maximum 35 feet.

406. Mixed Use District (MU)

A. Purpose. The purpose of the Mixed Use (MU) District is to encourage mixed use development in areas designated in the 2006 Town Comprehensive Plan. The Mixed Use District is established to provide expansion areas for future commercial, office, or small-scale light industrial businesses. Developments in this District are expected to employ access restrictions, including shared driveways and entry roads, and buffering requirements to minimize the impact of traffic, noise, glare, and parking associated with large-scale business uses on adjacent residential developments. Residential uses are not intended for this District.

B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.

- (1) Commercial uses as listed in Section 405.B.
- (2) Light industrial uses as listed in Section 407.B.

- C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:
- (1) Commercial uses as listed in Section 405.C.
 - (2) Light industrial uses as listed in Section 407.C.
- D. Lot Size. Minimum 40,000 square feet.
- E. Lot Frontage. Minimum 150 feet.
- F. Lot Coverage. Maximum 70%.
- G. Minimum Setbacks.
- Front – 50 feet
 - Side – 25 feet/50 feet from any residential district boundary
 - Rear – 25 feet/50 feet from any residential district boundary
- H. Height. Maximum 35 feet.

407. Light Industrial District (LI)

- A. Purpose. The purpose of the Light Industrial (LI) District is to encourage light industrial development in areas designated in the 2006 Town Comprehensive Plan. The Light Industrial District is established to provide for non-manufacturing industrial uses and businesses which are compatible with and do not detract from surrounding districts. Developments in this District are expected to implement the proper safeguards for protecting established residential districts and environmentally sensitive areas. More specifically, light industrial uses shall employ access restrictions, including shared driveways and entry roads, and buffering requirements to minimize the impact of traffic, noise, glare, and parking associated with large-scale business uses on adjacent non-industrial developments. Residential uses are not intended for this District.
- B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.
- (1) Warehouses
 - (2) Self-storage facilities
 - (3) Research & development
 - (4) Building & construction materials
 - (5) Wholesale business
 - (6) Accessory uses
- C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:
- (1) Food processing & packing plants
 - (2) Dry cleaning operations
 - (3) Automotive Sales

(4) Automotive Service Stations

D. Lot Size. Determined through Site Plan Review.

E. Lot Frontage. Minimum 100 feet.

F. Lot Coverage. Maximum 70%.

G. Minimum Setbacks.

- Front – 100 feet
- Side – 100 feet/200 feet from any residential district boundary
- Rear – 100 feet/200 feet from any residential district boundary

H. Height. Maximum 50 feet.

408. Industrial District (I)

A. Purpose. The purpose of the Industrial (I) District is to encourage more intensive industrial development in areas designated in the 2006 Town Comprehensive Plan. The Industrial District is established to provide opportunities for a wide range of manufacturing activities with greater potential for negative impacts, where public utilities and adequate transportation facilities are available or can be made available, and with proper safeguards for protecting established residential districts and environmentally sensitive areas. Developments in this District are expected to employ access restrictions, including shared driveways and entry roads, and buffering requirements to minimize the impact of traffic, noise, glare, and parking associated with large-scale business uses on adjacent non-industrial developments. Residential uses are not intended for this District.

B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.

- (1) Manufacturing
- (2) Bank earth products
- (3) Terminal facilities
- (4) Bulk fuels
- (5) Industrial agricultural enterprises
- (6) Food processing & packing plants
- (7) Outdoor Storage
- (8) Accessory Uses

C. Special Use Permit. Uses requiring a special use permit from the Planning Board shall include the following:

- (1) Dry cleaning operations
- (2) Recycling centers
- (3) Landfill operations

D. Lot Size. Determined through Site Plan Review.

E. Lot Frontage. Minimum 150 feet.

F. Lot Coverage. Maximum 70%.

G. Minimum Setbacks.

- Front – 150 feet
- Side – 100 feet/200 feet from any residential district boundary
- Rear – 100 feet/200 feet from any residential district boundary

H. Height. Maximum 50 feet.

409. Planned Development District (PD)

A. Purpose. The Planned Development District is established to promote a range of development and/or redevelopment opportunities regardless of the underlying zoning district(s), addressing individual building sites, common property, singular land use, and/or mixed land uses as a unit. These Districts can provide flexibility in land use and design regulations but anticipates the application of performance standards specific to the proposed development. The designation of a Planned Development District requires a zoning district change from the original district to PD, and the approved plat with use and dimensional regulations become the basis for continuing land use controls in that area.

B. Permitted Uses. Permitted uses shall include the following, and are subject to the requirements outlined in this section.

- (1) Lodging (i.e. motels and hotels)
- (2) Shopping plazas
- (3) Drive-in theaters
- (4) Single-family housing developments
- (5) Multi-family housing developments
- (6) Industrial centers
- (7) Natural resource conservation
- (8) Business parks
- (9) Manufactured Home Communities
- (10) Parks & Recreation

C. Lot Size. Minimum of 5 acres.

D. Lot Frontage. Determined through Site Plan Review.

E. Lot Coverage. Determined through Site Plan Review.

F. Minimum Setbacks.

- Front – Determined through Site Plan Review.
- Side – Determined through Site Plan Review.
- Rear – Determined through Site Plan Review.

G. Height. Determined through Site Plan Review.

410. Adult Use Overlay (AUO)

A. Purpose. Adult entertainment establishments exhibit serious objectionable operational characteristics which can lead to significant adverse impacts on the surrounding community, increase the crime rate, and undermine the economic, moral and social welfare of the community. The Adult Use Overlay district is established to provide an acceptable area in which adult entertainment establishments may be developed in the Town in order to prevent the negative secondary effects of adult entertainment establishments, and to ensure that the effects of such businesses will not adversely affect the health, safety and economic well-being of the community.

B. Specially Permitted Uses. Uses requiring a special use permit from the Planning Board shall include the following:

(I) Adult Uses

C. Size. As determined by the underlying District.

D. Lot Frontage. As determined by the underlying District.

E. Lot Coverage. As determined by the underlying District.

F. Minimum Setbacks.

- Front – As determined by the underlying District.
- Side – As determined by the underlying District.
- Rear – As determined by the underlying District.

G. Height. As determined by the underlying District.

H. Additional regulations:

- (1) No adult-oriented business shall be permitted in a building any part of which is used for residential purposes, including non-conforming residential uses.
- (2) No more than one adult oriented business shall be permitted in any building, or on any lot.
- (3) No minor (under the age of 18) shall be permitted onto the premises of any adult oriented business.
- (4) The exterior of the adult oriented business structure shall be consistent with the character of the surrounding structures and shall not detract from the appearance of the neighborhood.
- (5) An adult oriented business shall not be located within one thousand (1,000) linear feet from any building used for: residential purposes, a group care facility, a child care center, a regular place of religious worship, a public or private school, a public or semi-public building, a medical center, a community center, or another adult oriented business. Distance shall be measured from closest lot lines.
- (6) An adult oriented business shall not be located or operated within one thousand (1,000) linear feet of the property line of a public park, recreational facility, health facility, or trail.

(7) All adult oriented business shall be conducted within enclosed buildings.

Article V.

Regulations Applicable to All Districts

500. Principle buildings.

No single-family or two-family residential lot shall have erected upon it more than one principal building. No yard or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall be considered to provide a yard or open space for any other principal building.

501. Permissible structures.

- A. A detached accessory building with a total floor area no more than 30 percent of the total floor area of the principal structure and a height no greater than 2/3 the height of the principal structure may be located no closer than four (4) feet from a side or rear lot line.
- B. Fences six feet or less in height, excluding dog runs, may be located along the side or rear lot line.
- C. Unenclosed steps or stairways providing access to the first story of a building may extend into any required setbacks. Decks and porches shall not extend into required setbacks.

502. Access to improved street(s).

No lot may be created or permit for the construction of any building shall be approved, unless such structure has access from an improved street or a street on an official map, plan, approved subdivision or duly filed plat in accordance with the regulations for Subdivision of Land in the Town Code. Every lot shall have access in accordance with the provisions of this Chapter.

503. Clear vision at intersections.

Clear vision shall be maintained on corner lots in a triangle formed by the intersection of street lines of such lots to a point fifty (50) feet from said intersection and a line connecting those points. Within that area no fence, wall, hedge, screen planting, bushes or shrubbery shall be permitted higher than three feet above the average finished grade of the lot. Trees shall be permitted within the area only if maintained and trimmed so that no branches or foliage is less than eight feet above the average finished grade of the lot.

504. Widening of right-of-way.

Where a building lot has frontage on a street, which is formally proposed for right-of-way widening by the Town Highway Superintendent, the County Highway Department, or the NYS Department of Transportation in accordance with NYS Highway Law, the required front setback shall be measured from such proposed right-of-way line.

505. Lots in more than one district.

All the uses, buildings and facilities, yards, open space, off-street parking and required landscaping must be contained within the district in which the use is permitted.

506. Corner and through lots.

The locations of all buildings on corner lots and on lots extending between two parallel streets shall comply with the following requirements: any yard fronting on an improved street shall be a front yard, one other yard shall be a rear yard, and any other yards shall be a side yard.

507. Creation of a new lot.

When a new lot is formed so as to include within its boundaries any part of a former lot on which there is an existing building or use, the subdivision must be carried out in such a manner as will not infringe upon any of the provisions of this chapter, either with respect to any existing structures or use or any proposed structures or use.

508. Accessory Buildings and Uses.

- A. Accessory uses shall be on the same lot as the principle building.
- B. Accessory uses over 144 square feet in size shall require a building permit and site plan for review.
- C. Accessory structures, including private garages, shall not be constructed in the front yard or beyond the front setback.
- D. All accessory structures shall be within the required setback dimensions unless otherwise specified.
- E. Accessory structures shall match or complement the principle structure to the greatest extent feasible.

509. Dumping of waste material.

Dumping, piling or accumulation of refuse, garbage (other than in closed containers which are regularly emptied in a lawful manner), waste material, scrap or other noxious substances is prohibited in all districts. The disposal of refuse, garbage, waste materials, or other similar substances shall occur at the Town Landfill Site, subject to the regulations set forth in the "York Landfill Ordinance" (1971) and the "Solid, Industrial, and Hazardous Waste Management" local law (1989).

510. Outdoor storage of materials and equipment.

- A. Applicability. With the exception of licensed and approved junk yards, outdoor storage shall pertain to, but not be limited to, the following instances:
 - (1) Inoperable vehicles, machinery, or equipment;
 - (2) Junk, salvaged, dismantled or discarded materials;
 - (3) Scrap building materials, commercial or industrial fixtures; and
 - (4) Building materials not associated with a construction or alteration to a structure on a lot with a valid building permit.
- B. Visibility. Outdoor storage shall be screened so as not be visible from any publicly accessible areas, such as, but not limited to public streets or highways; existing or planned residential areas; open space, parking, access driveway or other similar thoroughfare; parks or recreational areas; or areas of public congregation (schools, churches, etc).
- C. Screening. At a minimum, the storage areas shall be screened with the following:

- (1) A solid wall or fence not less than six (6) feet in height that encloses the storage area from any publicly accessible areas; and/or
- (2) Screening landscaping to soften the view of the wall. Evergreen trees are preferred over deciduous, and a combination of vertical (trees) and horizontal (groundcover) elements shall be utilized.

D. General Requirements.

- (1) No outdoor storage may exceed the height of the screening fence or wall, as identified in §510.
- (2) All outdoor storage and its associated screening shall be located to the side or rear of the primary structure.
- (3) Screening walls, fences or other structures shall be architecturally compatible with the primary structure.
- (4) Lighting of storage areas are subject to the outdoor lighting requirements specified in §518.
- (5) Outdoor storage of any hazardous materials shall be enclosed in an appropriate container to prevent leakage or spilling and in accordance with any State or Federal regulations. Cautionary signage shall be placed in a visible location at the entrance to the storage area.

E. Outdoor storage areas shall be graded properly to drain all surface water to a public storm system or a dedicated stormwater system. The storage areas may be surfaced with permeable materials provided adequate dust and erosion control are provided.

F. No more than one unregistered motor vehicle is allowed to be stored outside on any lot, except in an approved and licensed junk yard or automobile service station.

511. Fences, walls, and other structural screening elements.

- A. A zoning permit is required prior to installation of a fence unless prohibited by the New York State Agriculture and Markets Law.
- B. Any fence shall have its most pleasant or decorative side facing the adjacent properties. The fence posts and other supporting structures of the fence shall face the interior of the area to be fenced.
- C. The height of all fences shall be measured from the average finished grade of the lot at the base of the fence.
- D. Fences six (6) or fewer feet in height are exempt from the setback requirement. Higher fences must be setback from the property line. In no case shall the height of a fence exceed fifteen (15) feet. Fences located between the front building line and the street right-of-way shall be no more than 42 inches in height if a solid-walled fence. Taller fences may be allowed if they are “see-through” or transparent.
- E. Fences incorporating barbed wire, electric current or similar materials or devices shall be allowed only when necessary, subject to Planning Board approval, for public utility operations or the enclosure of livestock and shall be subject to a minimum ten-foot setback, and shall include cautionary signage.
- F. The Planning Board, as part of Subdivision or Site Plan Review, may require a fence or other screen to shield adjacent residences or other uses from undesirable views, noise or light.
- G. Fences shall be maintained to provide functional, visual and structural integrity.

512. Temporary uses and structures.

Temporary uses for nonconforming uses incident to housing and construction projects, including such structures and uses as the storage of building materials and machinery, the processing of building materials, a real estate office located on the tract being offered for sale or a temporary dwelling, such as a

recreational vehicle with appropriate provisions for water supply and sewage disposal used during construction of a dwelling, may be allowed in accordance with §802.F of this Chapter.

513. Minimum dwelling Size.

All residential dwellings shall be a minimum of 860 square feet in size. This minimum area shall not include the cellar, basement, garage, attic, or any other unfinished areas.

514. Protection of Environmentally Sensitive Areas.

- A. Intent. It is the intent of these regulations to protect areas of the Town of York where land development and use may cause either ecological harm, create a public health or safety issue or degrade specific features that are important to the community, such as floodplains, wetlands, riparian areas, water bodies, major viewsheds, historical/archeological significant areas, or steep slopes. Areas that are deemed to be environmentally sensitive shall include those listed above that are identified by the Town, features described in an adopted comprehensive land use study, and any other features regulated by any other local, State or Federal agency.
- B. Procedures for zoning permits. Whenever an application for a zoning permit is submitted to the Code Enforcement Officer, the applicant shall show proof that the proposed use or activity is in conformance with the standards mentioned herein. The Code Enforcement Officer shall issue the zoning permit in accordance with the standard review procedures outlined in this Chapter, provided that all other conditions and requirements of this Chapter are met.
- C. Standards. The following standards shall apply to all activities and operations which have an impact on the natural environment in the Town of York, with the exception of agricultural operations in County agricultural districts. These features may be subtracted from the allowable building area of the site, unless a significant method of mitigation is approved by the Planning Board.
 - (1) Wetlands. Development activities in State and Federally-designated wetlands and wetland buffer areas shall be regulated by State (NYS DEC) and Federal (US Army Corps of Engineers) permit requirements. The development and/or use shall be designed so as to not disturb the natural function and process of the wetland(s).
 - (2) Steep Slopes. Development on a slope greater than 15%, as determined by a topographical survey done by a licensed land surveyor or the most current USGS topographical map, shall be designed to minimize the amount of cutting into an embankment, general grading, or removal of vegetation.
 - a. Developments on slopes of 15 percent or greater shall require a report by a licensed geotechnical or soil engineer indicating that the slope may be developed safely and outlining what advanced engineering practices will be utilized.
 - b. Erosion and stormwater runoff shall not be increased any more than the current conditions of the site.
 - c. A Stormwater and Erosion control plan, drafted by a licensed engineer, shall be submitted to the Planning Board for review with a Site Plan, if required.
 - d. To the greatest extent feasible, any structure(s) or accessory uses (including driveways, access roads, and parking) shall follow the existing contours of the land, or evidence shown otherwise.
 - (3) Floodplains. Any development proposed within a floodplain shall be designed and constructed in accordance with the National Flood Insurance Program, the Town of York Floodplain Development local law (#2 of 1981), and the Town of York Flood Damage Prevention local law (#2 of 1987).
 - (4) Stream Corridors and riparian areas. In addition to any other streams identified by the Town or any other State or Federal agency, these regulations shall apply to the following

streams/creeks in the Town of York: Brown's Creek, Christie Creek, Bidwells Creek, Bairds Creek, and Salt Creek.

- a. No development shall be allowed within twenty-five (25) feet of the average high-water mark of the stream, except for the construction of fences, bridges, or fishing parking areas.
- b. A buffer strip of at least fifty (50) feet shall separate all new development, except for those previously listed, from the top of the embankment of a stream. Wherever possible, the buffer strip shall retain the natural vegetation, including any groundcover, shrubs, brush, or trees to minimize erosion and maintain bank stability.
- c. Development shall be designed and constructed in accordance with erosion and stormwater control standards and best management practices identified in NYS DEC's "Stream Corridor Management Manual."

- (5) Sites of historic or archeological significance. Development shall not seriously threaten any sites of historical or archeological significance as identified by the NYS Historic and Preservation Office, Livingston County, or any other historical agency.
- (6) Major scenic viewshed(s). Development should not impede upon, obstruct, or otherwise threaten any scenic viewshed(s) identified by the Town. At a minimum, scenic viewshed(s) will include those listed in the Town of York Comprehensive Plan including areas along the Genesee River and Spezzano Gully.

515. Incentive zoning.

- A. Purpose and intent. The Town Board may grant zoning incentives to property developers to encourage the provision of certain community benefits or amenities, such as parks, open space, public active and passive recreational opportunities, and other physical, social, or cultural benefits or amenities that are in accordance with the Town Comprehensive Plan and in coordination with other community planning mechanisms or land use techniques.
- B. Applicability. Incentives may be offered to applicants in the districts specified in §515.F who offer an acceptable amenity to the community in exchange for the incentive. Incentives shall be granted only when the amenities offered would not otherwise be required or likely to result from the applicable planning process before the Planning Board.
- C. Allowable amenities. The selection of land or other amenities within a parcel to be considered for incentive zoning shall be made by the applicant and subject to the approval of the Town Board, with a recommendation by the Planning Board. The following amenities may be accepted by the Town Board:
 - (1) Permanent conservation of natural areas or agricultural lands.
 - (2) Continued agricultural use of areas with prime agricultural soils.
 - (3) Provision of passive/active open space for public use.
 - (4) Infrastructure improvements.
 - (5) Provision of trail linkages.
 - (6) Preservation of scenic views or corridors, as identified by the Town.
 - (7) Provision of cross access easement or shared access that eliminates multiple curb cuts to a dedicated public street or highway.
 - (8) Design and construction of LEED-certified buildings and sites.
- D. Cash payment in lieu of amenity. If the Town Board finds that a community benefit is not suitable on-site or cannot be reasonably provided, the Town Board may accept a cash payment in lieu of the provision of the amenity. These funds shall be placed in a trust fund to be used by the Town Board exclusively for amenities specified prior to acceptance of funds. Cash payments in lieu of amenities are not to be used to pay general and ordinary governmental operating expenses.

- E. Allowable incentives. The following incentives may be granted by the Town Board to the applicant on a specific site:
- (1) Increases in density.
 - (2) Changes in setback or height standards.
 - (3) Reduced permit fees.
 - (4) Expedited review times.
 - (5) Other benefits as deemed appropriate by the Town Board.
- F. Permitted Districts. Incentives shall be allowed in all districts, as defined on the official Zoning Map. The Town Board determined these districts contain adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection. Further, the Town Board determined that there will be no significant environmentally damaging consequences, will not adversely impact low income residents and that such incentives and bonuses are compatible with development that is permitted.
- G. Criteria and procedure for approval. Applications for incentives in exchange for amenities shall be submitted to the Town Board. In order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be provided by the applicant:
- (1) A full description of the proposed amenity.
 - (2) The value of the proposed amenity.
 - (3) A narrative which:
 - a. Describes the benefits to be provided to the community by the proposed amenity. The proposed amenity shall be of a nature that is useable and fully accessible to the public (i.e. open space not located in a marshy area or scenic views that are not fully obstructed by development).
 - b. Provides preliminary indication that there are adequate sanitary sewers, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located in order to accommodate additional demands, if any.
 - c. Explains how the proposed amenity promotes implementation of physical, environmental or cultural policies articulated in approved plans.
 - (4) The proposal shall be referred to the Planning Board for review. The Planning Board will then report to the Town Board with its evaluation of the adequacy with which the amenity(s)/incentive(s) fit the site and how they relate to adjacent uses and structures. The Planning Board's review shall be limited to the planning, design and layout considerations involved with project review or such other issues as may be specifically referred by the Town Board.
 - (5) The Town Board will review the Planning Board's report. The Town Board will notify the applicant as to whether it is willing to further consider the proposal and hold a public hearing.
 - (6) All applicable requirements of the State Environmental Quality Review Act (SEQRA) shall be complied with as part of the review and hearing process. The Town Board shall act as the lead agency during the SEQRA process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sanitary sewer, water, transportation, waste disposal and fire protection facilities to:
 - a. Serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/incentive proposal.
 - b. Serve the onsite amenity and incentive, given the development scenario described in Subsection 6(a) above.

- (7) Following the hearing and in addition to compliance with all SEQRA requirements, the Town Board shall, before taking action, refer the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to other boards and officials for review and comment. In order to approve an amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to act on an application for site plan or subdivision approval pursuant to applicable regulations.
- (8) Following preliminary plan approval and subject to meeting all conditions imposed on the preliminary plan, including all documentation required by the Town Attorney and Town Board on the amenity, the applicant may submit a final plan to the Town Board for review and approval.

516. Performance standards.

A. Applicability.

- (1) Planning Board action. All uses subject to the requirements of this section may be established and maintained if their operation is approved by the Planning Board as being in conformance with the standards and regulations limiting dangerous and objectionable elements, such as dust, smoke, odor, fumes, noise or vibration. In approving the site plan, the Planning Board shall decide whether the proposed use will conform to these applicable performance standards or any additional performance standards required by state or federal laws or which are generally recognized performance standards for a given industry.
- (2) Use subject to the performance standards procedures.
 - a. All uses subject to site plan review must comply with these performance standards.
 - b. In addition, if the Code Enforcement Officer has reasonable grounds to believe that any other existing or proposed use violates any of the performance standards, such proposed use may be required to certify compliance with these performance standards or such existing use may be cited for violation of these regulations.

B. Performance standards procedures.

- (1) The Code Enforcement Officer as part of the sketch plan conference shall tentatively identify whether a proposed use will be required to certify compliance with any of the performance standards listed in this section. The applicant is then required to provide evidence that the proposed use will comply with the performance standards set forth in this section. Certification by the applicant may require signing a written statement or presentation of construction detail and a description of the specifications for the mechanisms and techniques to be used in restricting the emissions of any dangerous and objectionable elements. The applicant shall also file with such plans and specifications an affidavit acknowledging understanding and stating agreement to conform to the same at all times. Any information which is designated by the applicant as a trade secret and submitted herewith will be treated as confidential under provisions of the New York State Freedom of Information Law. During the course of Site Plan Review, the Planning Board will determine if the applicant's proposal falls within the performance standards based upon information provided by the applicant. The Code Enforcement Officer can require the applicant to show that the construction detail and a description of the specifications for the mechanisms and techniques are in compliance with the standards set forth below. In addition, the Town and Code Enforcement Officer may utilize the Town Engineer or other consultants to determine compliance with these standards at the expense of the applicant.
- (2) Vibration.
 - a. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or beyond the lot lines, nor shall any

vibrations produced exceed 0.002g peak at up to a frequency of 50 cycles per second, measured at or beyond the lot lines using either seismic or electronic vibration measuring equipment.

- b. Vibrations occurring at higher than a frequency of 50 cycles per second or a periodic vibration shall not induce accelerations exceeding 0.001 g. single impulse periodic vibrations occurring at an average interval greater than five minutes shall not induce accelerations exceeding 0.01 g.

(3) Noise.

- a. The maximum decibel level radiated by any use or facility at any lot lines shall not exceed the values in the designated octave bands given in Table 1. The sound-pressure level shall be measured with a second-level meter and associated octave-band analyzer conforming to standards prescribed by the American Standards Association. (American Standard Sound-Level Meters for Measurement of Noise and Other Sound, Z24.3-1944, American Standards Association, Inc., New York, and American Standard Specifications for an Octave-Bank Filter Set for the Analysis of Noise and Other Sound, Z24.10-1953, American Standards Association, Inc., New York, New York, shall be used.)

Table 1	
Frequency Band (cycles per second)	Maximum Permitted Sound-Pressure Level (decibels)
0 to 75	69
75 to 150	60
150 to 300	56
300 to 600	51
600 to 1,200	42
1,200 to 2,400	40
2,400 to 4,800	38
4,800 to 10,000	35

- b. Where any use adjoins a residential or mixed use district at any point at the district boundary, the maximum permitted decibel levels in all octave bands shall be reduced by six decibels from the maximum levels set forth in Table 1.

- (4) Smoke. The density emission of smoke or any other discharge into the atmosphere during normal operations shall not exceed visible gray smoke of a shade equal to or darker than No. 2 on the standard Ringelmann Chart. (A Ringelmann Chart is a chart published by the United States Bureau of Mines, which shows graduated shades of gray for use in estimating the light-obscuring capacity of smoke). These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparent equivalent capacity.
- (5) Odor. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable when diluted in the ratio of one volume of odorous air emitted to four volumes of clean air. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control

will be maintained if the primary safeguard system should fail. There is hereby established, as a guide in determining such quantities of offensive odors, in Table III, Odor Thresholds, in Chapter 5 of the Air Pollution Abatement Manual, Copyright 1959, by the Manufacturing Chemical Association, Inc., Washington, D.C., as said manual and/or table is subsequently amended.

- (6) Fly ash, dust, fumes, vapors, gases and other forms of air pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point beyond the boundaries of the lot. The concentration of such emission on or beyond any lot line shall not exceed 0.1 the maximum allowable concentration set forth in §12-29 of the Board of Standards and Appeals of the New York State Department of Labor, effective October 1, 1956, and any subsequent standards.
- (7) Electromagnetic radiation. It shall be unlawful to operate or cause to be operated any planned or intentional source of electro magnetic radiation which does not comply with the current regulations of the Federal Communications Commission regarding such sources or electromagnetic radiation, except that, for all governmental regulations regarding such sources of electromagnetic radiation of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission. Further, said operation in compliance with the Federal regulations shall be unlawful if such radiation causes an abnormal degradation in performances of other electromagnetic radiators or electromagnetic receptors of quality and pro-per design because of proximity, primary field, blanketing, spurious reradiation, harmonic content or modulation of energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices, as defined in the latest principles and standards of the American Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in interpretation of the standards and principles shall apply: American Institute of Electrical Engineers; Institute of Radio Engineers; and Electronic Industries Association.
- (8) Radioactive radiation. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property lines. The handling of such radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes shall be in conformance with the regulations of the Nuclear Regulatory Commission, as set forth in Title 10, Chapter 1, Part 20, as amended, and all applicable regulations of the State of New York.
- (9) Heat. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 5°F, whether such change is in the air or on the ground, in a natural stream or lake or in any structure on such adjacent property.
- (10) Glare.
 - a. Direct glare. No such direct glare shall be permitted, with the exception that parking areas and walkways may be illuminated by luminaries so hooded or shielded that the maximum angle of the cone of direct illumination shall be 45° drawn perpendicular to the ground, and with the exception that such angle may be increased to 60° if the luminary is less than four feet above ground.
 - b. Indirect glare. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface, not to exceed 0.3 footcandle (maximum) and 0.1 footcandle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited.
- (11) Liquid or solid waste. No discharge shall be permitted at any point into a public sewer or stream or into the ground, except in accordance with standards approved by the State and Livingston County Departments of Health and local ordinances, of any materials of such

nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents or insects.

- (12) Storm Water. Developments shall comply with all applicable regulations pertaining to the State Pollution Discharge Elimination System (SPDES) for all construction activities. Information can be obtained from the New York State Department of Environmental Conservation (NYSDEC), Region 8. The developer/applicant shall provide a copy of all permits, plans, and approvals pertaining to stormwater discharge and/or erosion control to the Town prior to plan approval.

517. Sign Regulations.

- A. Purpose. The primary purpose of these sign regulations in the Town of York is to identify the location or occupant for a parcel of land while protecting public health, safety and general welfare. These regulations also serve to:

- (1) Ensure right to free speech as protected under the Constitution;
- (2) Preserve visual qualities of hamlets, commercial areas, and rural landscapes in the Town of York;
- (3) Stabilize and reinforce property values and investment in buildings and open spaces;
- (4) Provide businesses with effective means of identification while reducing visual clutter through the prevention of excessive and confusing sign displays;
- (5) Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in public rights-of-way;
- (6) Avoid personal injury and property damage from unsafe signs; and
- (7) Establish a clear and impartial process for those seeking to install signs.

- B. General Requirements. The following applies to all signs in the Town of York:

- (1) Any sign erected after this ordinance is adopted must conform to these regulations;
- (2) No sign other than official traffic/highway signs to be erected in public right-of-way unless specifically authorized by municipal authorities;
- (3) No sign shall obstruct the view at the intersection of any streets or be confused with traffic management signs or signals;
- (4) Signs projecting over public walkways are subject to the projection and clearance limits presented in the "Table of Sign Regulations", located in the Appendix, §1201;
- (5) If property/structure contains walls facing more than one property line, the sign areas will be computed separately for each face of the building facing a different frontage;
- (6) Any sign that no longer advertises the use of the property must be removed within fifteen (15) days after written notification from the Code Enforcement Officer; and
- (7) Temporary signs:
 - a. No temporary sign is allowed for more than 30 days with no more than one 30 day extension.
 - b. Size of temporary signs is regulated by the provisions in these regulations, but shall not be in excess of the size permitted for any permanent sign of similar type or configuration within specific zones.
 - c. Any sign requiring electricity must conform to requirements for permanent signs requiring electricity under this ordinance.

C. Signs Authorized Without a Permit. The following types of signs may be erected in the Town of York without obtaining a permit:

- (1) Official sign, public notice sign, or warning sign supported by federal, state or local law. (Example: NYS inspection station or authorized repair shop identification.);
- (2) Any sign within a building not legible from the street or adjacent lots;
- (3) Any sign within an enclosed outdoor space, such as athletic field, where sign is not legible beyond the property lines;
- (4) Works of art not displaying a commercial message;
- (5) Banners not displaying a commercial message;
- (6) Holiday decorations not displaying a commercial message;
- (7) A-frame signs, no more than two per lot and no larger than 12 square feet per side; and
- (8) Gas price signs attached to pumps, no larger than one square foot.

D. Permitted Signs. The "Table of Sign Regulations", located in the Appendix, §1201 lists the requirements for different types of permitted signs that might be proposed for installation in the Town of York. The Table addresses each type of sign by zoning category, listing whether each sign type is permitted in each zone, the number of signs permitted per site, and the information on sign size, setbacks, and lighting requirements.

E. Prohibited Signs. The following types of signs are prohibited in the Town of York:

- (1) Any sign for which no permit was issued or that had its permit revoked;
- (2) Any sign that has been abandoned/obsolete or is not properly maintained, considered structurally unsound, hazardous or otherwise unsafe;
- (3) Any sign erected that presents confusion with a traffic sign or traffic control device;
- (4) Signs that imitate or interfere with official traffic lights or traffic control devices;
- (5) Flashing, rotating, revolving signs/lights, except barber poles or holiday decorations;
- (6) Any sign with lighting devices or reflectors placed to outline or provide the background of a sign;
- (7) Animated signs;
- (8) Signs with mirrors;
- (9) Off-premise signs (excluding agricultural operations);
- (10) Billboards;
- (11) Windblown or inflated signs;
- (12) Any portable sign attached to or placed on an unregistered vehicle parked on private property for the primary purpose of being viewed by motorists within the right-of-way;
- (13) Pennants, except as part of a grand opening affixed to the face of a building (regulations for temporary signs will apply); and
- (14) Any sign other than those listed in §517.C placed on a curb, sidewalk, hydrant, or utility pole.

F. **Nonconforming Signs.** These sign regulations are intended to encourage eventual elimination of signs that do not meet the requirements articulated in this Section, while avoiding unreasonable invasion of property rights. The requirements for nonconforming signs in the Town of York include:

- (1) Any sign legally in existence advertising a current, operational business one day prior to the enactment of this Chapter, shall be considered a nonconforming sign and may be continued and maintained;
- (2) Any sign existing at the time this Chapter is adopted that is altered in any way shall be considered a new sign and must adhere to the requirements of this Chapter and cannot be replaced by another nonconforming sign; and
- (3) Any sign existing at the time this Chapter is adopted that is damaged or destroyed through no action of the owner may be repaired or replaced, providing the sign is of identical specifications, location and appearance prior to the damage.

G. **Specific Provisions by Zoning Category** (See “Table of Sign Regulations,” Appendix §1201 for sign allowances)

(1) Residential Districts

- a. Signs advertising use for public, quasi-public, non-profit, church, schools, hospital or other similar uses, shall be located on the same premise as the use.
- b. Project identification signs for large, multifamily developments shall be permitted for a period not to exceed three (3) years or whenever all the lots have been sold, whichever occurs first.

(2) Non-Residential Districts

- a. Two signs per use are permitted for a single business or industry. Where contiguous businesses or industries are located on a single lot, such as, but not limited to, shopping centers, industrial centers, or business parks, each business or industry shall be permitted two signs and the lot may be permitted one sign.
- b. One sign per use permitted on a single business or industrial lot.
- c. Maximum areas in the “Table of Sign Regulations” (Appendix, §1201) represent the cumulative sign area for all signs on the lot.
- d. Malls or Plazas. Where groups of two or more contiguous stores are located together, one sign per use shall be permitted in addition to a single freestanding sign for the mall or plaza, subject to the “Table of Sign Regulations (Appendix §1201.)

H. **Construction & Design Standards**

(1) Design considerations

- a. Location:
 - (i). All signs must be located on private property and adhere to the dimension and setback requirements contained in the “Table of Sign Regulations.” (Appendix, §1201)
- b. Sign Area
 - (i). The area of a sign will include all lettering, wording, and accompanying designs and symbols with the background area, but will not include any supports, framework, or bracing.

- (ii). The area of a sign applied to a building will include all lettering, wording and designs/symbols with the background area.
 - (iii). When a sign consists of individual letters or symbols attached to or painted on a surface, the area will be considered to be the smallest rectangle or other shape that encompasses all letters/symbols
 - (iv). When computing the area of a double-face sign, each side is considered to be a separate sign.
 - (v). Aggregate Sign Area – total square feet of all signs allowed on site.
- c. Signs shall be constructed from weather resistant and durable materials (i.e. metal, lumber/wood, plastic, etc.)
- d. Lettering
- (i). Shall be permanently affixed to sign or
 - (ii). Changeable copy shall be enclosed and locked.
 - (iii). Digital messages:
 - a. Message shall change no more than once per week
 - b. Digital message signs shall not be located adjacent to residential districts
 - c. The illumination from a digital message sign shall be controlled so as not to trespass onto adjacent properties or cause unwanted glare in accordance with §518.
- (2) Construction specifications
- a. Compliance with the NYS Uniform Code and other applicable codes and regulations;
 - b. Light fixtures and related wiring will comply with the National Electric Code, and all electrified signs shall bear Underwriters' Laboratories label and all electrical connections approved by New York Board of Fire Underwriters;
 - c. Transformers, wires, and similar items shall be concealed;
 - d. All wiring to freestanding signs will be underground;
 - e. All signs and related items will be kept in good repair and safe condition;
 - f. A sign may not obstruct a fire escape;
 - g. All signs requiring a permit will display the name and operating telephone number of the person/organization responsible for the sign; and
 - h. No sign shall be located within six (6) feet of an electrical conductor, light pole, street lamp, traffic light, or other utility pole.
- (3) Illumination
- a. Light sources to be shielded to avoid glare/light pollution beyond property lines and prevent disturbance to motorists;
 - b. No flashing, rotating, intermittent or moving light sources are permitted; and
 - c. Public service messages will display for not less than 2 seconds.
- (4) Sign maintenance
- a. Maintained in safe and structurally sound condition;
 - b. Signs to be maintained by painting, cleaning, replacement of worn fixtures and illuminating elements;
 - c. Area surrounding any freestanding sign will be free from weeds, rubbish, and flammable material; and
 - d. Area surrounding any freestanding sign will be landscaped with plant materials to integrate the sign with the development on the parcel.

518. Outdoor Lighting Regulations.

- A. Intent. The purpose of this section is to establish regulations to allow for outdoor illumination levels which are appropriate for the use, and its safety and security, while minimizing the undesirable side effects of excessive illumination such as glare, light trespass, and light pollution. Over time, it is the intent that this section will allow for reasonably uniform illumination levels in the community.
- B. Applicability. This regulation shall apply to all outdoor lighting fixtures installed during new construction, the expansion and alteration of existing structures, and well as the replacement of lighting fixtures (not the light bulb itself).
- C. Approvals Required. For uses which require a site plan review, the Planning Board shall require a lighting site plan to be submitted showing the location, number, type/style, mounting height, and lighting levels produced on the ground (i.e. photometric report). All other uses shall conform to the general requirements contained herein.
- D. General Requirements/Standards.
 - (1) All outdoor lighting fixtures shall be shielded or otherwise contained on the property on which it originates from. (known as "*Light Trespass Limitations*")
 - (2) Exterior lighting fixtures on commercial, industrial, and multi-family properties shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cut-off fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA. Where no standard from IESNA exists, the Planning Board shall determine the appropriate level in consultation with the Town Engineer, taking into account levels for the closest IESNA activity.
 - (3) To minimize the indiscriminate use of illumination, it is recommended that outdoor lighting, except as required for security, be extinguished during non-operating hours. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.
- E. Specific Requirements/Standards.
 - (1) Parking Lots. Parking lots shall not exceed light levels necessary for safety and locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or incorporate design features with the intent of eliminating off-site light spillage.
 - (2) Canopy and Roof Overhang. Lights installed on canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the canopy or overhang. Lights shall not be mounted on the sides or top of the canopy or overhang.
 - (3) Outdoor Signs. Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign and shall be shielded or directed in such a way that the light illuminates the sign only. Internal illumination of a sign shall be concealed behind opaque, translucent, or other similar types of glass.
 - (4) Bottom-mounted or Up-lighting. To comply with "Dark Skies" and minimize unnecessary lighting, up-lighting shall be only allowed for flagpoles that display Federal, State, and/or local government flags only, provided that the illumination is directed onto the flagpole only.
- F. Exemptions. The following types of outdoor lighting are exempt from this regulation unless otherwise specified:
 - (1) Street lighting installed by the Town of York, Livingston County Highway Department, or the NYS Department of Transportation.
 - (2) Low-voltage lighting as defined by the National Electric Code (NEC).
 - (3) Holiday lighting.

- (4) Temporary construction and emergency lighting needed by police or emergency services provided the light is extinguished upon completion of the work needing the lighting.
- (5) Hazard warning lights required by a federal or state regulatory agency, except that all fixtures used must be as close as possible to the federally required minimum output.
- (6) Lighting associated with farm or agricultural operations. However, farm or agricultural operations within 100 feet of an adjacent residential dwelling shall be shielded to prevent light trespass onto the adjoining property.

G. Prohibited Lighting.

- (1) Blinking, flashing, strobe or search lights.
- (2) Exposed strip lighting used to illuminate building facades or signs.
- (3) Any light that may be confused with or construed as a traffic control device.

519. Off-Street Parking and Loading Regulations.

A. Intent. The purpose of the following standards are to:

- (1) Ensure that any parking area or facility is designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjacent properties from nuisances caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles;
- (2) Reduce congestion on the streets;
- (3) Ensure there are adequate amounts of parking and loading facilities to serve the use(s) and users of the property; and
- (4) Encourage alternative parking designs and modes of transportation to reduce dependence on single-occupancy vehicular trips and improve efficiency during travel.

B. Applicability. These regulations apply to any parking area or facility that is constructed, altered, or established in the Town of York upon the effective date of this Chapter. Any area or facility that lawfully existed prior to the adoption of this Chapter shall not be subject to the provisions of this section, provided the parking area is not changed. Alterations, expansions, or conversions of uses that would increase the amount of parking required shall conform to these regulations.

C. Minimum Required Parking Spaces. Parking for all uses and structures shall be provided in accordance with the table below. Where no requirement is designated and the use is not comparable to any of the listed uses, parking requirements shall be determined by the Planning Board based upon the capacity of the facility and its associated uses. The Planning Board may consult with the Town Engineer or other resources in their determination.

Residential

Single-family dwelling	2 per dwelling unit
Two-family dwelling	2 per dwelling unit
Multifamily, studio-1bedroom	1 per dwelling unit
Multifamily, 2-3 bedroom units	2 per dwelling unit
Senior housing	1.5 per dwelling unit
Boarding houses	0.5 per rooming unit

Government/Cultural/Educational

Schools, elementary & intermediate	2 per classroom
Schools, secondary	1 per 10 students + 2 per classroom
School, occupational/skill training	1 per instructor + 1 per 6 students
Place of worship	1 per 3 seats
Community Center	3 per 1,000 square feet

Library	1 per 1,000 square feet
Auditorium	1 per 4 seats
Private club	8 per 1,000 square feet
Recreational:	
Bowling Alley	2 per lane
Skating Rink	1 per 5 persons (based on capacity)
Swimming Pool	1 per 4 persons (based on capacity)
Tennis Club	3 per court
Day care or nursery	1 per 6 enrolled
Hospital	1 per 2 beds + 1 per 2 employees (during maximum shift)
Medical clinic, medical office	5 per 1,000 square feet
Nursing home	1 per 3 beds + 1 per 2 employees (during maximum shift)

Commercial/Retail

General retail	3 per 1,000 square feet
Food store	3 per 1,000 square feet
Convenience store	5 per 1,000 square feet
Shopping center, planned business development	4 per 1,000 square feet
Home occupations	1 per employee in addition to residential minimum

Services

Bank	2 per 1,000 square feet
Bar/tavern/nightclub	6 per 1,000 square feet
Bed & breakfast lodging	1 per guest bedroom + 1 per owner
Barbershop/beauty salon	1 per chair
Dry cleaning/Laundromat	2 per 1,000 square feet
Hotel/motel	1 per room + 1 for every 5 rooms (employee parking)
Funeral homes	10 per 1,000 square feet
Office, professional or business	2 per 1,000 square feet
Restaurant, carry-out	2 per 1,000 square feet
Restaurant, with drive-thru	6 per 1,000 square feet
Restaurant, sit-down	10 per 1,000 square feet

Vehicle-related

Vehicle repair/service station	2 per bay
Vehicle sales	2 per employee
Vehicle rental	1 per 1,000 square feet floor area

Industrial/Manufacturing

All uses	1 per 2 employees
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- D. Parking Exceptions. Per Planning Board approval, uses within five-hundred (500) feet of a municipal parking lot or designated on-street parking may be wholly or partially exempt from the off-street parking requirements.
- E. Shared Parking. Off street, shared parking for two or more uses that are located on the same lot or share a common property boundary and have different peak parking demands or operating hours may be required by the Planning Board. The applicant may also propose shared parking.

Off street parking for two or more uses located near one another that have different peak parking demands or different operating hours.

- (1) Parking must be located within five-hundred (500) feet of buildings/uses it is intended to serve.
- (2) The applicant must demonstrate that the uses have different peak hour parking demands or that the total parking demand at one time would be adequately served by the total number of parking spaces proposed.
- (3) A Shared Parking Agreement must be drafted documenting the joint use and must be reflected in a deed, lease, contract or other appropriate document.

F. General Requirements.

- (1) Off street parking areas shall be screened in accordance with the landscaping, screening and buffer regulations specified in §520 of this Chapter.
- (2) Parking to be located within five-hundred (500) feet of the proposed use.
- (3) For residential districts, no permanent parking spaces are to be located in the required front yard setback. Driveways, required turn-around tees, and access roads used only for ingress or egress are exempt from this setback requirement.
- (4) For non-residential districts, parking between the building and the frontage ROW is limited to one row of parking with screening along the ROW, with the remaining parking to the side or rear of the building.
- (5) Customer/employee parking should not be located within 10 feet of residential areas unless proper screening is installed. *(See §520.)*
- (6) Parking is not to be located within 10 feet of street frontage unless proper screening or decorative fencing is installed. *(See §520.)*

G. Design Standards (non-residential).

- (1) Dimensional Requirements:
 - a. Approximately 180 square feet per automobile, exclusive of access ways & maneuvering space.
 - b. Perpendicular and angular parking, 9 feet wide by 20 feet long.
 - c. Parallel parking, 9 feet wide by 20 feet long.
 - d. Loading spaces, 12 feet wide by 35 feet long. If tractor-trailers are expected, the length shall be 55 feet. A 14 foot height clearance is also required for either case.
- (2) Ingress and egress requirements:
 - a. One (1) two-way driveway at least 20-feet in width.
 - b. Two (2) one-way driveways at least 10-feet in width.
 - c. Whenever feasible, driveways and curb cuts serving adjacent uses shall be combined to minimize entrances onto a public street.
- (3) Maneuvering space:
 - a. Adequate space shall be allocated to prevent vehicles from backing onto public right-of-way.
 - b. Shall not be located within the right-of-way of a public street.
- (4) Driveway distance from intersections shall be greater than 50 feet from the intersection of any two streets within 20 feet of a lot line.

- (5) Surface material, construction, and drainage:
 - a. All-weather, durable, and dust free surface.
 - b. Surfaces graded and drained to direct stormwater runoff to an approved drainage system.
 - c. Final surface materials and drainage systems to be reviewed by Planning Board for approval and shall include any necessary stormwater plans (i.e. Stormwater Pollution Prevention Plan) as required by the NYS DEC or any other regulatory agency.
- (6) Snow storage areas:
 - a. For off-street parking areas greater than 20 spaces, provide a dedicated area independent of required parking/loading spaces.
- (7) Lighting shall be in conformance with the lighting standards in §518.
- (8) Stacking standards for drive-thru uses, as determined by Planning Board, such as, but not limited to;
 - a. Banks/ATMs: 4-5 spaces measured from teller/ATM.
 - b. Car washes: 3 (self-serve) -10 (automatic) spaces, measured from entrance.
 - c. Gas station pumps: 2 spaces, measured from the pump island.
 - d. Pharmacies: 4 spaces, measured from window.
 - e. Restaurants: 4-6 spaces, measured from order box.
 - f. Oil change/quick lube stations: 3 spaces per bay.

520. Landscaping, Screening and Buffer Regulations.

- A. Intent. The following standards are intended to implement the Town of York's long term planning goals by assuring an acceptable degree of buffering between land uses, particularly between residential and nonresidential uses, including agricultural operations, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community and encouraging preservation of existing natural features. Specifically, these regulations are intended to:
 - (1) Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
 - (2) Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
 - (3) Provide natural buffers that reduce glare and noise, provide wildlife corridors and protect wildlife habitats, wetlands, stream corridors and other significant environmental features.
 - (4) Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.
 - (5) Enhance the overall visual quality of the community by surrounding developed areas with a variety of plant materials that are consistent and compatible with the existing natural vegetation of the area.
- B. General requirements.
 - (1) Development activities requiring site plan approval shall submit, as part of such approval, a landscaping plan in accordance with §520-D of this ordinance. This shall include, but not be limited to, major and minor subdivisions, commercial, retail, and industrial uses.
 - (2) Existing site vegetation and unique site features, such as stone walls, shall be incorporated into landscaping plans to the maximum extent feasible. Existing healthy trees which are

retained shall be credited against the requirements of these regulations in accordance with their size and location.

- (3) Issuance of a Certificate of Occupancy shall require completion of lot grading, seeding and required landscaping or posting of a performance guaranty acceptable to the Code Enforcement Officer if the applicant cannot perform the work due to seasonal impracticalities.
 - (4) All required landscaping shall be of healthy stock, planted according to accepted horticultural practices. Landscaping plans may also include a landscape maintenance plan as required in §520-E to clearly indicate who is responsible for plant maintenance during the first 24 months after planting, and a performance guaranty may be posted for assuring replacement in kinds of plants, which die or become diseased with in that time at the Planning Board discretion.
 - (5) All required landscaping shall be maintained in healthy condition by the property owner. Failure to maintain such landscaping or to replace dead or diseased landscaping required by this ordinance shall constitute a violation of these regulations.
 - (6) Where existing conditions make compliance with these regulations not feasible, the Planning Board, at its discretion, may approve planters, plant boxes or pots containing trees, shrubs and/or flowers to comply with the intent of these regulations.
 - (7) Trees for screening shall be of species and stock that will provide a visual screen from the ground up, at least five (5) feet in height. Species adequate for the Town of York can be determined by a registered Landscape Architect, landscape consultant, or other professionals or using resources such as the National Arbor Day Foundation or the local Cornell Cooperative Extension.
 - (8) Pedestrian access to sidewalks or buildings should be considered in the design of all landscaped areas.
- C. Landscaping Standards. All plant materials must conform to the most current edition of the American Nursery and Landscape Association's American Standard for Nursery Stock (ANSI Z60.1 - 2004). Applicants are recommended to design and install landscaping that shall be tolerant of typical environmental conditions of this region (USDA Hardiness Zone 6). Proper trees shall be chosen where any height restrictions (i.e. power lines) exist to minimize conflicts and improper pruning techniques.
- (1) Landscaping adjacent to public right-of-way. On a lot which provides off-street parking, a loading area, or any other vehicular uses, public or private, the owner shall provide landscaping between the public right-of-way and the edge of such area.
 - a. At a minimum, a strip of ten (10) feet or greater in depth shall be landscaped. The landscaping shall include a minimum rate of one (1) deciduous tree for every thirty (30) feet of right-of-way frontage and shrubbery, hedge, or bush per 10 feet of frontage.
 - b. All plant material adjacent to parking areas, loading areas, and driveways shall be protected by barriers, curbs, or other means from damage from vehicles or stormwater runoff.
 - c. The remainder of the landscaped area shall be landscaped with grass, groundcover, or other appropriate landscape treatments as determined by the Planning Board.

- d. Property other than the required landscaped areas found between the public right-of-way and the vehicular area shall be grass or other ground cover material.

(2) **Parking Areas.** The following guidelines shall apply to all parking areas of 10 spaces or more.

- a. The primary landscaping materials for parking areas shall be deciduous trees which are capable of providing shade at maturity. A minimum of one deciduous tree per 10 parking spaces is required and/or shrubbery, hedges and other live plant materials are to be used to complement the tree landscaping at rate of one per 10 spaces.
- b. A landscaped buffer shall be provided at the perimeter of the parking area with a mix of deciduous and evergreen species, with no one species dominating. Berms and other topographical features are also encouraged to be used as a component to the buffer.
- c. All end islands of parking rows and all areas not otherwise used for ingress, egress, aisles or parking must be landscaped. In addition, landscaped islands shall be provided within the parking area every 15 parking spaces and shall be a minimum of 360 square feet or the dimensions of two typical parking spaces as defined in §519 (parking requirements) of this ordinance. Deciduous trees capable of providing shade at maturity are encouraged to be used within the islands, with the remaining open area covered with grass, groundcover, or other similar materials.

(3) **Screening.** To reduce headlight glare from parked vehicles, lighting from a parking or loading area, as well as reduce noise and airborne particles, the following standards are provided. In addition to parking and loading areas, areas used for temporary parking or standing, such as a motor vehicle service station or drive through windows, are included.

- a. On properties where buildings, structures, parking, loading, or other vehicular open areas abut residential properties, the area between said properties shall be properly screened with a wall, fence, berm, hedge, or other plant materials or combinations thereof no less than three (3) feet nor greater than eight (8) feet in height.
- b. In addition, one deciduous, ornamental, or coniferous tree shall be planted every seventy-five (75) feet, with the remaining area to be landscaped with grass, groundcover, or any other treatments deemed appropriate by the Planning Board.
- c. The landscaped barrier shall be continuous, parallel, and at least ten (10) feet from the building, structure, or vehicular area.
- d. When adjoining properties are already developed with the required landscaping installed to meet this requirement, the proposed parking or loading area shall be screened with 50 percent of the required plantings.
- e. Minimum screening requirements shall also be provided, but not limited to, the following situations:
 - (i). Multi-family dwellings abutting single family or two-family dwellings.
 - (ii). Commercial, industrial, and institutional uses abutting single family residential uses.
 - (iii). Manufactured home communities abutting a public right-of-way or single-family use.
 - (iv). Outdoor storage areas specified in §510 of this ordinance.
 - (v). New residential development adjacent to active farm operations or vacant, open fields that contain prime agricultural soils and could possibly be used for farm operations.

- (4) Subdivisions. Single-family or multi-family residential subdivisions shall be required to submit landscaping plans in accordance with §520-D of this ordinance. In addition to the landscaping plan requirements, subdivisions shall require the preservation of existing vegetation or plant a minimum of two shade trees of a minimum two-inch caliper, for each dwelling. Such tree(s) shall be located outside the public right-of-way in the front yard.

D. Landscaping Plan.

- (1) Based on the scale and location of the project, the Planning Board shall determine whether the landscaping plan must be prepared by a licensed landscape architect, landscape designer or other professional. All landscaping plans shall contain the following information:
 - a. A title block with the name of the project, the name of the person preparing the plan, a scale, North arrow and date.
 - b. All existing, significant plant materials on the site.
 - c. Existing and proposed structures.
 - d. Topographical contours at two-foot intervals.
 - e. Drainage patterns.
 - f. Location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be protected or removed.
 - g. Landscaping of parking areas, access aisles, entrances, common open areas, recreation areas, and perimeter buffer areas.
 - h. Other information as may be required by the Code Enforcement Officer and/or the Planning Board.
- (2) Alternative landscaping plans may be submitted, provided that they meet the purpose and intent of these regulations.

E. Landscaping Maintenance. A "Landscape Maintenance Agreement" may be required and executed prior to the issuance of a Certificate of Occupancy for commercial and industrial uses. The agreement ensures the long term care of the landscape elements. The property owner and/or lessee is responsible for maintaining the quality of all plant material, non-plant landscaping, and irrigation systems used in conjunction with the landscaping. Improper maintenance shall be determined through periodic inspection by the Code Enforcement Officer or his duly authorized Deputy or as evidenced through dead or highly distressed vegetation, overgrowth of weeds, or other means.

- (1) Maintenance shall include, but not be limited to; watering, weeding, mowing (including trimming at the base of fencing), fertilizing, mulching, proper pruning, and removal and replacement of dead or diseased trees and shrubs on a regular basis.
- (2) All missing, dead, decaying, or injured tree(s) or landscaping shall be remedied or replaced within 30 days at the owner's expense. The replacement shall be of the same species and size unless otherwise approved.
- (3) Irrigation systems shall be designed to minimize spray on buildings, neighboring properties, or sidewalks; maintained in proper operating condition; and conserve water to the greatest extent feasible through proper watering techniques.

521. Excavations and Fill

- A. Any excavations or placement of fill over one acre in size requires a zoning permit from the Code Enforcement Officer, unless indicated elsewhere in this Zoning Code. No excavation or fill

activities shall cause adverse impacts to environmentally sensitive features or neighboring properties by changing the flow of surface water within or outside of the property boundaries. Adverse impacts shall include, but not be limited to water quality or flow, substantial increase/decrease to water levels, or drainage disturbance.

- B. A zoning permit is not required for:
 - (1) Agricultural operations within a County-adopted Agricultural District.
 - (2) Excavation, fill, and grading for public projects within the public right-of-way.
 - (3) All excavation, fill, and grading associated with the development of an approved subdivision plat.
- C. Placement of fill must be in accordance with Planning Board approved Site Plans, particularly sections in relation to drainage, erosion control and flood hazard prevention. Installation or improvement of natural or constructed drainage channels may be required to assure adjacent property owners are not negatively impacted by fill activities.
- D. Any grade alteration, which involves removal of vegetation, but no built improvements on an area greater than 5,000 square feet, shall be seeded to provide an effective cover crop within the first season after initiation of the grade change operation.
- E. Only unregulated fill materials, such as uncontaminated soil, asphalt, brick, stone, concrete, and organic debris from the premises may be used in such fill activities.
- F. The surface slope of any excavation shall not exceed one (1) foot of vertical rise for each one and one-half (1 ½) foot of horizontal distance.
- G. Open excavations shall not be maintained, except during construction. Wells, septic tanks, cesspools, cisterns, and similar openings shall be temporarily covered, barricaded, and posted with warning signs to prevent access to such openings.

522. Siting of Single- and Double-wide Manufactured homes¹.

- A. Applicability
 - (1) The siting of single-wide manufactured/mobile homes shall be permitted only in manufactured home communities within the Town of York, as defined in §609.
 - (2) All single-wide manufactured/mobile homes presently sited in the Town of York outside of Manufactured Home Communities shall be allowed to continue as a pre-existing, nonconforming use in accordance with Article VII. An existing single-wide manufactured/mobile home may only be replaced with a newer single-wide manufactured/mobile home provided the new home meets Federal HUD requirements. In no circumstances can a single-wide manufactured/mobile home be placed on a new, single lot. Single-wide homes shall require skirting that shall be continuously maintained.
 - (3) A variance shall be required for the replacement of an existing single-wide manufactured/mobile home as stated in §522.A(2) if the location of the new home encroaches further into the setback that existed with the existing home location.
 - (4) A single-wide manufactured/mobile home shall have a living area of not less than seven-hundred fifty (750) square feet. If the home sought is a double-wide, it shall have a living area of not less than eight-hundred sixty (860) square feet, shall be located on its own lot owned by said applicant, and shall be used solely for single-family residential occupation.
 - (5) The siting of double-wide manufactured homes shall be permitted in all zones in the Town of York where single-family residential dwellings are permitted. Each double-wide manufactured home so sited must be on a full perimeter foundation with concrete or block foundation walls extended below the frost line, and must be affixed to said foundation strictly in accordance with the manufacturer's specifications.

¹ Formerly Local Law 1 of 1995 – Mobile Home Law, repealed.

- (6) All manufactured homes newly sited within the Town of York shall be required to meet all Federal, State, and local laws and regulations and shall be no more than fifteen (15) years old at the time they are so sited.
- (7) If the siting of the manufactured home is not completed within six (6) months from the date of issuance of the permit, the permit is automatically terminated and voided, and is of no further force and effect.

B. Permit

- (1) Application for a permit to site a manufactured home shall be made to and obtained from the Code Enforcement Officer prior to the commencement of any siting preparation on the lot set forth in the application.
- (2) Upon completion of the siting of the manufactured home pursuant to the requirements of the permit, a Certificate of Occupancy must be obtained from the Code Enforcement Officer prior to being occupied.
- (3) A permit issued under these regulations cannot be transferred or assigned in any manner, and it is for the personal benefit and use of the applicant to whom the permit and certificate is issued.

Article VI. Use Specific Regulations

600. Home Occupations

- A. The occupation or profession shall be carried on wholly within the principal building, unless the Planning Board grants a special use permit to allow the home occupation in an accessory building, subject to the requirements of §508 of this Chapter.
- B. No more than two persons not residing in the household shall be employed in the home occupation.
- C. There shall be no exterior display, other than an attached sign no larger than four (4) square feet, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- D. No offensive odor, noise, vibration, smoke, dust, heat or glare shall be produced, nor will the storage or handling of hazardous material be allowed.
- E. No more than 20 percent of the floor area of the residence will be allowed for the use of the home occupation.
- F. Parking for home occupations shall be permitted in accordance with the parking regulations in §519.

601. Kennels

- A. The kennel and its operation will not create nuisance conditions for adjoining properties due to noise or odor in accordance with the performance standards in §516 of this Chapter and other local laws of the Town.
- B. All animals will be confined to the property and housed in an enclosed structure in humane conditions (i.e. protected from weather, clean & sanitary, adequate space, non-porous surfaces, well ventilated, etc.)
- C. Animals are to be kept inside an enclosed structure between the hours of 8:00 pm and 6:00 am.
- D. Adequate methods for sanitation and sewage disposal, which may require a waste disposal plan at the discretion of the Planning Board. The disposal plan, at a minimum, should outline the approximate amount of sewage expected, methods to properly dispose of the sewage, and methods for sanitation for the kennel. Certification by a licensed, professional engineer and/or the NYS Department of Health may be required if existing disposal systems are utilized or new systems installed.
- E. Kennels and exterior pens, including dog runs, shall be located at least 200 feet from the nearest dwelling (other than the owner or user of the property) and at least 100 feet from any lot line. Landscaping, screening or buffering may be required by the Planning Board to minimize the visual and auditory impact to neighboring properties subject to the regulations in §520.

602. Outdoor Furnaces

- A. Existing Furnaces. Any outdoor furnace in existence prior to the effective date of this Chapter shall be permitted to remain, provided that the existing furnaces comply with §602-B(2), (7) and (8) of this Chapter. Any new or replacement outdoor furnaces shall comply with these regulations.
- B. Requirements.
 - (1) A zoning permit is required from the Code Enforcement Officer prior to the installation of an outdoor furnace. Permit fees shall be established by the Town Board.

- (2) All outdoor furnaces shall be installed, operated, and maintained in strict conformance with the manufacturer's specifications, the NYS Uniform Code, other regulatory agencies, and the regulations as specified below.
- (3) All outdoor furnaces sold, distributed, or installed in the Town of York shall be certified by the manufacturer to meet a particulate matter emission limit of 0.44 pounds per million British thermal units (lb/mmBTU) produced in the outdoor furnace. A copy of this certification shall be submitted with the zoning permit.
- (4) Outdoor furnaces shall not be located in the front yard of any lot.
- (5) Outdoor furnaces shall be setback at least 150 feet from any property line.
- (6) The furnace chimney heights shall be determined from the nearest residence:
 - a. If located more than 150 feet but not more than 200 feet to any residence, the top of the stack must be at least 25% of the height of the eaves line of that residence plus an additional two feet.
 - b. If located more than 200 feet from any residence, the top of the stack must be at least ten feet from the ground.
 - c. In all cases above, the top of the stack must be a minimum of at least ten feet from the ground.
- (7) All outdoor furnaces shall be equipped with a proper spark arrestor.
- (8) Applicable fuel. Only dry, natural, untreated wood or other materials as specified by the manufacturer shall be allowed. Under no circumstances shall the furnace be used as an incinerator to burn garbage, household waste, or other waste material.

- C. Suspension of Permit. Any person or entity illegally installing, maintaining or operating a device or apparatus regulated by this Chapter shall be subject to a violation in accordance with Article X. A suspended permit may be reinstated once the condition which resulted in suspension is remedied and reasonable assurances are given that such condition will not recur.
- D. Complaints. Any resident who has secured a permit for an outdoor furnace will also be agreeing to allow the Code Enforcement Officer or any other person designated by the Town to inspect the outdoor furnace if a complaint is filed in writing relative to a violation of this section.

603. Telecommunications Facilities²

- A. Intent. The intent of these regulations is to promote the health, safety and general welfare of the residents of York. Specifically, these regulations are intended to:
 - (1) Provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations.
 - (2) Minimize the number of telecommunications towers in the community by encouraging shared use of existing and future towers and the use of existing tall buildings and other high structures.
 - (3) Minimize adverse visual effects from telecommunications facilities by requiring careful siting, visual impact assessment and appropriate screening.
- B. Applicability.
 - (1) No telecommunications facility shall be used, erected, moved, reconstructed, changed or altered, except after approval of a special use permit, site plan, and in conformity with these regulations. No existing structures shall be modified to serve as a telecommunications facility unless in conformity with these regulations.
 - (2) These regulations shall apply only to Agricultural Zoned and Industrial Zoned Districts.

² Formerly Local Law 2 of 2001, repealed.

- (3) Exemptions to these regulations are limited to:
 - a. New uses which are accessory to residential uses, such as satellite dishes and television antenna(e).
 - b. Amateur radio operators as licensed by the Federal Communications Commission (FCC).
 - c. Lawful or approved uses existing prior to the effective date of these regulations.
- (4) Where these regulations conflict with other laws and regulations of York, the more restrictive shall apply, except for tower height restrictions which are governed by these conditional use standards.

C. General requirements.

- (1) All applications will be reviewed by the York Town Board or their designee(s) and shall meet the following requirements:
 - a. Is necessary to meet the current or expected demand for service.
 - b. Conforms with all applicable regulations promulgated by the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and other federal agencies.
 - c. Is considered a public utility in the State of New York.
 - d. Is designed and constructed in a manner which minimizes visual impact to the extent practical.
 - e. Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
 - f. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one other telecommunications service provider. Any subsequent location of telecommunications equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified conditional use permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan approval.
- (2) The site plan shall show elevations, height, width, depth, types of materials, color schemes and other relevant information for all existing and proposed structures, equipment, parking and other improvements. The site plan shall also include a description of the proposed telecommunications facility and such other information that the York Town Board requires.
- (3) A completed environmental assessment form (EAF), including a visual EAF addendum, pursuant to State Environmental Quality Review Act (SEQRA). Particular attention shall be given to the visibility of the facility from key viewpoints identified in the visual EAF, existing treelines and proposed elevations.
- (4) A landscape plan delineating the existing trees or areas of existing trees to be preserved, the location and dimensions of proposed planting areas, including the size, type and number of trees and shrubs to be planted, curbs, fences, screening elevations of fences and material used.
- (5) The governing board may, at the expense of the applicant, employ its own consulting assistance to review the findings and conclusions of the safety analysis, visual analysis or structural inspection provided by the applicant.
- (6) Companies shall be required to post a bond to cover the cost of removal, as well as the cost of landscape remediation according to the Town Engineer specifications.
- (7) The Town Board shall have the authority to set reasonable application fees and inspection fees by Board resolution.

D. Collocation

- (1) The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any conditional use permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to collocate onto an existing telecommunications facility or upon an existing structure, such as a silo, water tank or emissions stack. The application shall include an adequate inventory report specifying existing telecommunication towers and structures exceeding seventy-five (75) percent of the height of the proposed tower within the applicant's cell grid area. The inventory report shall contain an evaluation of opportunities for shared use as an alternative to the proposed location.
- (2) The applicant must demonstrate that the proposed telecommunications facility cannot be accommodated on existing telecommunications facility sites in the inventory due to one of the following reasons:
 - a. The planned structure would exceed the structural capacity of existing and approved telecommunications facilities, or other structures, considering existing and planned uses for those facilities.
 - b. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
 - c. Existing or approved telecommunications facilities or structures do not have space on which proposed equipment can be placed so it can function effectively and reasonable.
 - d. Other technical reasons make it impractical to place the equipment proposed by the applicant on existing facilities or structures.
 - e. The property owner or owner of the existing telecommunications facility or other structure refuses to allow such collocation.

E. Lot standards.

- (1) A lot leased or owned for the purpose of construction of a tower as part of a telecommunications facility shall not result in the creation of a non conforming lot.
- (2) All telecommunications facilities shall comply with the greater of the setback standards of the underlying zoning district, the fall zone of the tower or the height of the tower.
- (3) The entire fall zone may not include public roads and must be located entirely within property either owned or leased by the applicant or for which the applicant has obtained an easement and may not contain any structure other than those associated with the telecommunications facility.

F. Lighting, screening and aesthetics.

- (1) Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA). However, an applicant may be required to add FAA- style lighting and marking if, in the judgment of the Town Board, such a requirement would be of direct benefit to public safety.
- (2) The use of any portion of a telecommunications facility for signs, promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers or balloons is prohibited.
- (3) The facility shall have the least practical visual effect on the environment, as determined by the Town Board. Any tower that is not subject to FAA marking pursuant to Subsection A of this section shall:
 - a. Have a galvanized finish or shall be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Town Board; or
 - b. Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the facility to perform its designed function.

- (4) Accessory facilities shall maximize the use of building materials, colors and textures designed to blend in with the natural surroundings.
- (5) In addition to a visual EAF addendum, the Town Board may require visual and aesthetic information as it deems appropriate on a case-by-case basis. Such additional information may include, among other things, line-of-sight drawings and/or visual simulations.
- (6) Proposed telecommunications facilities shall have appropriate vegetative screening around the tower base area and any accessory facilities to screen their view from neighboring residences, recreation areas or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Town Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities or conservation or historic areas within common view of the public.

G. Access and parking.

- (1) Accessways shall make maximum use of existing public or private roads to the extent practical. New accessways constructed solely for telecommunications facilities must be at least twenty (20) feet but no more than thirty (30) feet wide and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (2) The road surface (driveway) shall be centered within accessways and shall not comprise more than sixty (60) percent of the width of the accessway.
- (3) Parking areas shall be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
- (4) Driveways or parking areas shall provide adequate interior turnaround, such that service vehicles will not have to back out onto a public thoroughfare.
- (5) Equipment or vehicles not used in direct support, renovation, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.

H. Security.

- (1) Towers and accessory facilities shall be surrounded by a fence or wall, including barbed wire to prevent accidents, at least eight feet in height of a reasonable design approved by the Town Board, but with limited visual impact.
- (2) A security system shall be provided with adequate lighting. Such lighting should only occur when the area within the fenced perimeter has been entered.
- (3) There shall be no permanent climbing pegs within thirty (30) feet of the ground of any tower.
- (4) A locked gate at the junction of the accessway and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

I. Engineering and maintenance.

- (1) All telecommunications facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent applicable standards of the Institute of Electronic and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- (2) All telecommunications facilities shall be inspected at least every fifth year for structural integrity by a New York State licensed professional engineer. A copy of the inspection report shall be submitted to the Code Enforcement Officer.

604. Outdoor Sales and Display

- A. The display area shall not exceed five (5) percent of the gross floor area of the primary structure.
- B. The display area shall not block automotive traffic, sidewalks, fire lanes, or other travel lanes.
- C. The items for display are for sale and said area is not used for storage purposes.

- D. If a personal motor vehicle, trailer, or recreational vehicle is being sold, no more than one vehicle shall be displayed on the driveway or parking lot unless the lot conforms to §606. The vehicle must be owned by the owner of the premises & shall not be displayed in the public right-of-way.
- E. Personal garage, lawn, yard, or rummage sales shall be allowed without a zoning permit provided that no more than six (6) garage sales are held on a single property in any twelve (12) month period for a maximum duration of no more than five (5) days, with a minimum of five (5) days between the ending of a sale and the beginning of a new sale. At the end of a sale, all merchandise/items that are for sale shall be moved so as not to be visible from the public right-of-way.

605. Automotive Service Station

- A. Automotive service stations shall be buffered from adjacent uses no less than ten (10) feet. The buffer area shall minimally consist of evergreen shrubbery or coniferous trees that shall prevent the unwanted transmission of headlight glare across the property line. The remaining setback area shall consist of open lawn or other similar elements
- B. The entire site area that is traveled by motor vehicles shall be hard surfaced (i.e. asphalt, crushed stone, concrete, or any other dust free surfacc).
- C. All major repairs (e.g rebuilding, replacement, or reconstruction of transmission, engine, body/frame, etc.) of motor vehicles shall be fully performed within an enclosed structure. Minor automotive repairs may be allowed outside of enclosed structures. (e.g. diagnostic services, maintenance services, inspections, battery or fluid replacement, etc.) No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed structure or screened area.
- D. No more than five (5) unregistered cars shall be allowed at a service station for repairs at any one time.
- E. Service stations may include retail sales of food, convenience items, and minor automotive supplies or liquids provided that the sales of such items are within an enclosed structure and are an accessory use. Sales areas outside of the primary structure may be displayed on the pump islands or the building island only.
- F. Vehicles may be displayed for sale at a service station provided the following:
 - (1) The sale of vehicles is specified in the special use permit;
 - (2) No more than four (4) vehicles are on display at any one time;
 - (3) Boats, trailers, RV's, and other recreational vehicles and equipment shall be included in the allowable sales limit;
 - (4) Vehicles shall be stored in a neat and orderly manner; and
 - (5) Vehicles for sale shall be an accessory use and secondary to the primary use of the property.
- G. Fuel pumps shall be located no closer than twenty (20) feet from the public right-of-way or thirty (30) feet from any other property lines, with the exception of §605-F above.
- H. In addition to the information required for site plan review, the plan shall also indicate the location, number, capacity, and type of fuel storage tank, the number of pumps to be installed, and the depth to the tanks.

606. Automotive Sales

- A. The sale of new or used vehicles may be allowed by special use permit provided the following:
 - (1) The sales area shall be hard surfaced, suitably graded and drained, and maintained in a neat and orderly manner;
 - (2) Exterior illumination shall be the minimum necessary to provide adequate security of the premises;

- (3) Landscaping, screening, or of buffering of the sales area from adjacent uses shall be required; and
 - (4) The number of cars that may be for sale on the premises must be specified on the special use permit. An increase in the number of cars to be sold shall require a new permit.
- B. All major repairs (e.g rebuilding, replacement, or reconstruction of transmission, engine, body/frame, etc.) of motor vehicles shall be fully performed within an enclosed structure. Minor automotive repairs may be allowed outside of enclosed structures. (e.g. diagnostic services, maintenance services, inspections, battery or fluid replacement, etc.) No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed structure or screened area.
 - C. No vehicles shall be displayed for sale within ten (10) feet of the property line.
 - D. The retail sales of fuel shall not be permitted.
 - E. Landscaping (§520), signage (§517), and lighting (§518) shall meet the requirements of their respective sections.

607. Drive-thru Facilities

- A. Drive-thru facilities may be allowed an accessory use to “fast food” restaurants, pharmacies, banks, and other permitted or specially permitted uses.
- B. Drive-thru facilities, including any protective canopies, signage, drive-thru travel lanes, or other associated elements, shall be meet the setback requirements for the property.
- C. Drive-thru facilities with an amplified audio/visual system shall be setback a minimum of 30 feet from the property line. These facilities shall not be located adjacent to residential uses or districts.
- D. Stacking space for these facilities shall not impede on or off-site traffic movements. The stacking space shall be delineated from other internal areas through the use of pavement markings.

608. Junk Yards³

- A. Applicability. No person shall engage in the business of a junk dealer or to establish, maintain, operate or conduct any junk yard in the Town of York, Livingston County, New York, except in a duly licensed junk yard.
- B. License Application. An application for license shall be made to the Town Clerk along with a fee specified in the “Fee Schedule” in the Town Code, which shall offset the cost of the required investigation. Said application shall state the following:
 - (1) The name and address of the applicant;
 - (2) The nature and extent of his interest in the business for which a license is desired;
 - (3) A site plan detailing the location, size, nearby uses, and design of the proposed junk yard;
 - (4) And any other information required by the Town Clerk, pertaining to the licensees business.
- C. License Approval and Renewal. The Town Clerk shall refer such application to the Town Board and no license shall be issued without the approval of such Board. The Town Board shall seek written comment from the Planning Board in determining the conformity with the surrounding area, the Town’s Comprehensive Plan, or any other land development issues. Each license or renewal thereof shall expire on December 31 next following its issuance and may be renewed for a period of one year from the date of expiration after application and the payment of the fee required in this section. Such license shall always be on display in the office of the junk yard.

³Formerly Junk Ordinance from July 10, 1958. Repealed.

D. Site Requirements.

- (1) A site plan shall be forwarded to the Planning Board to review and to provide additional comment to the Town Board in their final decision. At a minimum, the junk yard shall be required to be fully fenced off with a lockable entry point.
- (2) The Planning Board shall review the site plan for any conditions that could endanger the health, safety, or welfare of the owner/applicant or to nearby properties. Additional screening or buffering may be required during the Planning Board's review.
- (3) There shall be maintained in each junk yard at least two approved fire extinguishers.

E. Management.

- (1) Every junk yard shall be under the management of the licensee who must be good reputation and character and who shall manage such junk yard from an office located on the premises. There shall be maintained in such office a bound book containing a record of the names of all persons from whom the licensee has purchased any material, their home addresses, the description of the material purchased and the price paid for such material. Such record shall at all times be available for inspection by any peace officer, a member of the Town Board or the Town Clerk.
- (2) It shall be the duty of the licensee of any such junk yard:
 - a. Not to buy from nor sell to any minor actually or apparently, under the age of 18 years.
 - b. To operate and maintain the junk yard in such a manner as to prevent the creation of fire hazards of any kind.
 - c. To take such other measures as shall be deemed necessary by the Town Board to preserve the health, comfort and safety of all persons doing business at the junk yard and of the general public.

F. None of the provisions of this Chapter shall be applicable to the sale of used bicycles, motorcycles, motor scooters, and automobiles which are in running condition; however, the mere fact that a "junk yard" as herein designated also offers for sale the aforementioned second hand articles shall not take the same out of the classification of a junk yard if the premises are used for any one of the purposes enumerated in the definition of junk yard herein.

G. License Revocation. The Town Clerk must, upon the order of the Town Board, revoke or suspend the license granted under authority of this Chapter, for failure to comply with any provisions of this Chapter or any laws or regulations relating to any such junk yard. Any person who violates any provision of these regulations or who fails to comply therewith, shall be guilty of an offense and subject to penalties as specified in Article X (Violations) of this Chapter.

609. **Manufactured Home Communities⁴**

- A. Intent. It is the intent of this section to regulate the placement of manufactured & mobile homes and the design of manufactured home communities to ensure they are attractive and well maintained thereby protecting the health, safety, welfare, and quality of life of the Town residents.
- B. Applicability. As specified in the definitions (§201), the placement of two (2) or more manufactured/mobile homes on a parcel or lot shall be considered a manufactured home community. This Chapter shall apply to all existing manufactured home communities located in the Town of York on the effective date of said Chapter and such existing manufactured home communities shall hence forth be maintained and operated in compliance with all provisions of

⁴ Formerly Mobile Home Park ordinance from May 7, 1970. Repealed.

this Chapter except that the provisions of §609-H(2) shall not apply to manufactured home communities in existence on the effective date of said Chapter. In regards to lots where mobile/manufactured homes are located, and being occupied, any addition, extension, or enlargements of existing communities made after the effective date of this Chapter shall be made in accordance with all of the provisions of this Chapter. The owner or operator of any existing community shall have ninety (90) days after this Chapter becomes effective to make application pursuant to Section 5 for a license to operate such community. The owner or operator of any existing community shall have one year after this Chapter becomes effective to comply with the provisions of §609-H(7). This Chapter shall also apply to any approved planned development district.

- C. **Permit Required.** No person, firm, or corporation being the owner or occupant of any land or premises within the Town of York shall use, or permit the use of, said land or premises as a manufactured home community without obtaining a permit therefor, as hereinafter provided.
- D. **Permit Requirements.**
 - (1) The application for the permit shall be in writing, signed by the applicant, and shall contain the following information:
 - a. The name and address of the applicant.
 - b. The name and address of each partner if the applicant be a partnership.
 - c. The name and address of each officer and director if the applicant be a corporation.
 - d. A complete description of the premises upon which the proposed community is to be located.
 - e. The name and address of the owner or owners of such premises.
 - f. The number of lots or units to be provided in the proposed community.
 - g. A schedule for development of the manufactured home community, with the number of mobile/manufactured homes to be added each year.
 - (2) The application shall be accompanied by two (2) sets of plans and specifications, drawn to scale, showing the layout of the community, the location, size, and arrangement of each lot, the location of streets, water services, and sewage disposal system or a detail of septic system(s) and leach fields to be provided. Each lot shall be separately numbered upon such plans. One (1) set of plans shall be retained by the Town Code Enforcement Officer, and the second set retained with the application. Where the applicant is not the owner of the premises, the application shall also be accompanied by a certified or photostatic copy of the lease of the premises.
 - (3) The application shall also be accompanied by a certificate of the Zoning Enforcement Officer of the Town of York that the location or proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning Chapter.
 - (4) Permit fees for manufactured home communities are found in the "Fee Schedule" in the Town Code.
- E. **Filing of Permit.** Each application shall be filed with the Town Clerk of the Town of York who shall thereupon transmit the same to the Town Code Enforcement Officer. The Code Enforcement Officer shall, after investigation, transmit the application to the Town Board of the Town of York, together with his or her written report with recommendations pertaining thereto. All such applications after investigation shall be, approved or rejected by the Town Board, after which applications should be filed with the Town Clerk and the applicant notified in writing by the Town Clerk of the action taken thereon. If said application be rejected, the applicant shall have the right to appear before the Town Board for a hearing.
- F. **Issuance of License.** The Town Clerk of the Town of York, upon the written application and upon the approval of the same by the Town Board, and upon receipt of the fee hereinafter provided, shall issue a license to become effective from the date thereof and to continue in force

through the thirty-first (31) day of December next succeeding for the use of the premises therein specified as a manufactured home community, which permit shall specify the number of lots which may be used in said community. No license issued pursuant to this Chapter is transferable or assignable.

G. **Permit Renewal.** Application for the renewal of any manufactured home community license issued pursuant to this Chapter must be filed with the Town Clerk on or before the first day of December next preceding the expiration of said license. The application shall set forth in detail any fact or facts in variation with any fact or facts set forth in the original application. The application shall state that all facts not set forth in the renewal application remain unchanged. The procedure for obtaining a renewal license shall, in all other respects, be the same as set forth above for obtaining an original license. Upon approval of said application for renewal of the license by the Town Board and upon the payment of the license fee provided for in the "Fee Schedule" in the Town Code, the Town Clerk shall issue a renewal permit, which shall become effective upon the expiration of the prior license and continue for a period of one year. Such renewal license shall not be transferred or assigned.

H. **Manufactured Home Community Regulations.**

- (1) **Drainage and grading.** All lands used as a manufactured home community shall be well drained, and free from heavy or dense growth of brush or woods. The land shall be properly graded to insure proper drainage during and following rainfall, and, shall at all times be so well drained as to be free from stagnant water.
- (2) **Subdivision.** Each manufactured home community shall be subdivided and marked, off into lots, each of which shall contain at least seven thousand (7,000) square feet. The shortest dimension of said lot shall be at least seventy (70) feet. No more than one (1) mobile/manufactured home shall be permitted to occupy any one (1) unit. Mobile/manufactured homes shall be so placed on each lot so that there shall be a distance of at least fifteen (15) feet from any lot line.
- (3) **Water supply.** A sufficient supply of drinking water shall be provided with proper water connection on each lot.
- (4) **Facilities.** No mobile/manufactured home shall be parked or located within a manufactured home community that does not contain a water closet, a lavatory and a shower or bathtub.
- (5) **Disposal of sewage and other water-carried wastes.** All sewage and other water-carried wastes shall be disposed of into a municipal sewage system whenever available; a suitable connection to that system shall be provided at each lot.
- (6) **Electric service and connections.** Each manufactured home community shall provide weather-proof electric service and outlets for each lot. All such connections and outlets are to be of a type approved by the New York State Board of Fire Underwriter, or the equivalent.
- (7) **Streets within manufactured home community.** All streets and thoroughfares within each manufactured home community shall have a travel surface of at least 20 feet in width. The travel surface shall be capable of supporting fire equipment weighing fifteen (15) tons. All streets shall be maintained by the manufactured home community and it is the responsibility of the community owner/operator to plow snow and keep the streets passable at all times, and all turns and curves shall be such as to allow the maneuverability of fire fighting equipment. There shall be no 'dead end' streets.
- (8) **Lighting.** There shall be a light source of one-hundred (100) lumen each three-hundred (300) feet of roadway, at a minimum.
- (9) **Sanitation.** Each manufactured home community shall be kept in a clean and sanitary condition free of all accumulations of rubbish, garbage, and refuse.
- (10) **Numbering.** Each lot shall be numbered according to the plan or layout submitted with the license application, and the number of each lot shall be conspicuously displayed on such lot so as to be readily visible from the street or highway on which the lot faces.

- (11) Fire Protection. Where a manufactured home community is not accessible to a municipal water supply, for purposes of fire protection there shall be provided a cistern, tank or pond or other source with a minimum of ten thousand (10,000) gallons of water, useable under all weather conditions, and a fire extinguisher of five (5) pounds capacity for each lot.
 - (12) Utility Buildings and other accessories. The community owner/operator shall provide a central storage area, or, each lot can so provide; a side addition is permissible, with a permit, where it will not violate line set backs.
 - (13) Recreation Area. A minimum of ten (10) percent of the total community area shall be set aside and developed for recreation purposes, and in any event a lot of two hundred (200) feet by two hundred (200) feet shall be provided.
 - (14) Parking. Off street parking shall be provided for two (2) cars at each mobile/manufactured house lot.
 - (15) Set Back. The individual lots shall be set back a distance of sixty feet (60) feet from any public highway right of way line. This area shall be seeded to lawn, landscaped, and maintained as a lawn, to eliminate any fire hazard.
 - (16) Sales. The sale of and display of mobile/manufactured homes for sale will be allowed as part of a manufactured home community, so long as each mobile/manufactured home occupies an individual lot.
- I. Manufactured Home Community Administration. The license holder of every manufactured home community shall be directly responsible for the care of every such community.
- (1) Registration. The license holder for a manufactured home community shall maintain a permanent record in writing of all persons occupying or using the facilities of such manufactured home community. Such record shall be a matter of public record and shall at all times be available for inspection by any law enforcement officer or authorized town officer. The records shall include the following:
 - a. Name and address of the owner of each mobile/manufactured home.
 - b. Number of the park unit upon which the mobile/manufactured home is located.
 - c. Date of arrival and departure from said community of each mobile/manufactured home.
 - (2) Duties. It shall be the duty of the license holder of every manufactured home community to provide for the collection of garbage and all other waste materials, prohibit the placing or storage of waste materials or unregistered vehicles of any kind, and to maintain the community and grounds so as not to pose a hazard to the occupants.
- J. License Revocation and Penalties.
- (1) If a police officer, Zoning Enforcement Officer, Health Officer, or any representative of the Town of York finds that any manufactured home community is not being conducted in accordance with the provisions of this Chapter, such facts shall thereupon be reported to the Town Board and said Town Board may direct the Town Clerk to serve an order in writing upon the holder of the license or the person in charge of said community, directing that the conditions therein specified be remedied within ten (10) days after date of the service of the order. If such conditions are not corrected after the expiration of said ten (10) day period, the Town Board may cause a notice in writing to be served upon the holder of said license or the person in charge of such manufactured home community, requiring the holder of the license to appear before the Town Board of the Town of York at a time to be specified in such notice, and to show cause why such manufactured home community license should not be revoked, The Town Board may, after such a hearing at which testimony of witnesses may be taken and the, holder of the license shall be heard, revoke such permit if said Town Board shall find that said park is not being maintained according to the provisions of this ordinance.

- (2) Any person who violates any provision of these regulations or who fails to comply therewith, shall be guilty of an offense and subject to penalties as specified in Article X (Violations) of this Chapter.

610. Terminal Facilities

- A. Repair and service of terminal vehicles may be permitted with the issuance of a special use permit for motor vehicle repair.
- B. Loading doors or docks shall not be located adjacent to any residential use or zone or along street frontage.
- C. Any outdoor storage of materials shall be subject to the outdoor storage requirements specified in §510.
- D. Idling of vehicles shall be limited to five (5) minutes in any sixty (60) minute period unless required for mechanical or electrical operations and not for cabin comfort or non-essential equipment or for emergency operations. Facility owners shall be responsible for compliance. (Ref: Environmental Conservation Law, Part 217-3)
- E. A fueling station may be allowed as an accessory use with the issuance of a special permit. No more than two (2) pumps shall be allowed.
- F. Landscaping and buffering may be required by the Planning Board if the facility is adjacent to less intensive uses such as retail, residential, or mixed uses. Any landscaping or buffering required shall conform to the standards set forth in §520 (Landscaping, Screening, and Buffer Regulations).
- G. The Board shall also take into consideration the character of the area, the traffic impacts, the proximity to arterial roadways suitable for large trucks, and other pertinent issues.

611. Eating & Drinking Establishments

- A. Eating and drinking establishments that are adjacent to residential uses or districts shall be buffered or screened to minimize visual and auditory impacts in a method approved by the Planning Board and in accordance with the regulations set forth in Article V, especially pertaining to landscaping, outdoor lighting, and parking.

612. Multi-Family Dwellings

- A. Driveways for ingress and egress shall be as required by the Town of York.
- B. Dimensional Requirements. The minimum distance between buildings in a multi-family development shall be seventy-five (75) feet. No multi-family dwelling or required recreation area shall be closer than fifty (50) feet to any property lines. The only exception is within the Hamlet District, where setbacks are determined through a site plan review.
- C. Parking areas may be located in any yard other than the front yard, but no closer than twenty (20) feet from any property line and shall comply with all other regulations of the district in which the use is located.
- D. Each multi-family dwelling development shall provide a recreation area or areas furnished with suitable equipment at a standard of one hundred (100) square feet for each dwelling unit with minimum of four hundred (400) square feet per area.
- E. Development applications for multi-family dwelling units shall be subject to Site Plan Review by the Planning Board in accordance with Article XI (Site Plan Review and Approval) of this Chapter.
- F. No multi-family building shall contain more than eight (8) dwelling units and all structures shall comply with the NYS Uniform Code.
- G. No part of the basement shall be used for living space.

- H. Stairways to upper floors shall be located inside the building.

613. Accessory Dwelling Units

- A. The owner(s) of the lot upon which the apartment is located shall reside within the principal dwelling or apartment.
- B. A homeowner of a lawful single-family use shall be permitted one accessory dwelling unit.
- C. An accessory dwelling unit may be located either in the principal building or in an accessory building. Water and sewage disposal facilities for accessory buildings shall be approved by the Livingston County Department of Health.
- D. The area for the unit shall not exceed forty (40) percent of the area of the principal dwelling unit.
- E. The exterior of the unit must have the appearance of a single-family dwelling and conform to the design of the existing dwelling. All construction must comply with the NYS Uniform Code.
- F. The property shall have one common driveway with adequate parking for all vehicles.
- G. The accessory dwelling unit shall not be used for rental property.
- H. Unless otherwise specified by the special use permit, sale of the real property or a change in the permit status will automatically cause the permit to expire and become null and void.

614. Quarries and Excavation Facilities

- A. Expansions, closures, or any other alterations of bank earth product excavation operations shall require a site plan review by the Planning Board and may be subject to performance standards as specified in §516 of this Chapter.
- B. Compliance with NYS DEC regulations for mining if more than 1,000 tons or 750 cubic yards of materials are removed from a site or more than 100 cubic yards of materials in or adjacent to any body of water (see Environmental Conservation Law, Article 15).
- C. All other excavations are subject to the regulations set forth in §521 of this Chapter.
- D. During the restoration of a quarry or excavation facility, the following shall apply:
 - a. The surface slope of any excavation shall not exceed one (1) foot of vertical rise for each one and one-half (1 ½) foot of horizontal distance.
 - b. The finished floor of the excavation shall conform to adjacent surfaces and be free of holes, water pools, mounds of debris, and other potential hazards.
 - c. The finished excavation shall be surfaced with a minimum of three (3) inches of topsoil, graded, and seeded.

615. Farm Stands

A farm stand may be permitted as a seasonal accessory use and sell agricultural and horticultural products produced on the premises or produced by the owner of a local farm, subject to the following regulations:

- A. No more than one structure of a temporary and movable nature shall be permitted and shall not exceed 200 square feet in total floor space.
- B. The ground display area shall be immediately adjacent and secondary to the farm stand and shall not exceed 400 square feet in area.
- C. The farm stand shall be permitted only during the recognized season for the production or harvest of such products and sales shall occur between dawn and dusk.
- D. A farm stand shall be located within the required setback of the lot on which it is located. If adequate parking is not available on the street, the owner must designate a temporary, off-street parking area.
- E. No products other than homegrown fruits, vegetables, dairy products, nursery stock, or value added products produced on-site from other products grown on-site may be sold or offered for sale at such stands.

- F. No permanent signage shall be permitted. The number and size of signs allowed shall be those allowed for the district in which the lot is located – see §517.

616. Keeping of Livestock

The keeping, sheltering, or maintenance of livestock, except as a part of an agricultural farming operation located in a County agricultural district, shall be subject to the following standards:

- A. The minimum parcel size shall be three (3) acres.
- B. A maximum of two (2) livestock may be kept, sheltered, or maintained per three (3) acres minimum.
- C. One (1) additional livestock may be kept, sheltered, or maintained for each additional acre over the three (3) acre minimum.
- D. Storage of manure or other odor-producing material or housing for livestock or poultry shall not be allowed within a minimum of one-hundred (100) feet of any residential lot line or private well.

617. Wind Energy Facilities⁵

- A. Intent. Wind energy is an abundant, renewable and nonpolluting energy resource and its conversion to electricity will reduce our dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use on conventional energy sources. Wind energy systems also enhance the reliability and power quality of the power grid, reduce peak power demands and help diversify the state's energy supply portfolio. These regulations provide regulations and standards that shall be met for the construction and operation of wind energy facilities in the Town of York to preserve the public health and safety.
- B. Applicability.
 - (1) The standards and requirements set forth in these regulations shall apply to all Wind Energy Facilities and Wind Measurement Towers, proposed, operated, modified or constructed after the effective date of this Zoning Code.
 - (2) These standards and requirements shall also apply retroactively to all Wind Energy Facilities, and Wind Measurement Towers currently constructed, reconstructed, modified or operating in the Town of York prior to the date of enactment of this Zoning Code. Current owners or operators shall have ninety (90) days to apply for a special use permit or site plan review pursuant to these regulations. Failure to comply with this subsection will result in penalties and fines pursuant to Article X.
 - (3) Wind Energy Facilities may be either principal or accessory uses. A different existing use or and existing structure on the same site shall not preclude the installation of a Wind Energy Facility or part of such facility on such site. Wind Energy Facilities constructed and installed in accordance with these regulations shall not be deemed expansions of a nonconforming use or structure.
- C. Fees. The fees for the review of WECS, Small WECS, and Wind Measurement Towers are set forth in the "Fee Schedule", in the Town Code, and may be amended from time to time by the Town Board, by resolution after a properly noticed public hearing.
 - (1) The Town shall also charge any fees accumulated from outside consultants hired by the Town during the review or inspection of any Wind Energy Facilities to the applicant. As an alternative, the Town and applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and applicant will

⁵ Formerly Local Law 5 of 2008 – Wind Energy Facilities (draft), repealed.

agree to a fee arrangement and escrow agreement to pay for these costs of the review of the plans, certifications, or conduct inspections as agreed by the parties.

- (2) The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph of that law.

D. Permits Required.

- (1) No Wind Energy Facility or Wind Measurement Tower shall be constructed, reconstructed, modified or operated in the Town of York except in compliance with these regulations.
- (2) A Wind Energy Facility shall be allowed only within a Wind Overlay Zone, pursuant to an application for rezoning with site plan review and approved special use permit.
- (3) Notwithstanding the requirements of this Section, replacement in-kind or modification of an approved Wind Energy Facility may occur without the Planning Board approval when: (1) there will be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the WECS.
- (4) No permit or other approval shall be required for mechanical, non-electrical WECS utilized solely for agricultural operations.
- (5) The transfer or sale of any Wind Energy Facility or special use permit shall not occur without prior notice to the Town of York. The new owner(s) are fully bound to the special use permit, along with any conditions attached hereto, and assumes full liability for the Facility upon final sale or transfer.
- (6) A permit may be revoked under the following instances:
 - a. A WECS, Small WECS, or Wind Measurement Tower is not maintained in operational at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should they violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 180 days.
 - b. Notwithstanding any other provision specified in §617.M, and consistent with §617.M(1) and §617.M(2), if the WECS, Small WECS, or Wind measurement Tower is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the special use permit for the facility and require the removal of the facility within 90 days. If the facility is not removed, the Town Board shall have the right to use the security posted as part of the Decommission Plan to remove the facility.

E. Wind Overlay Zones

- (1) Wind Overlay Zones may be created in the Agricultural District only.
- (2) Initial requests for Wind Overlay Zones shall be submitted with applications for WECS special use permits and are subject to site plan review. No Wind Overlay Zones may be initially created without specific requests for WECS.
- (3) Once a Wind Overlay Zone has been created, new WECS or accessory structures or facilities may be added in that zone by grant of a special use permit to pursuant to the requirements of this Section.
- (4) The Planning Board shall forward their recommendation for rezoning to the Town Board and, upon completion of the entire review process, shall issue a written decision with reasons fully stated.

- (5) If any approved WECS is not substantially commenced within two (2) years of issuance of the permit, the special use permit shall expire.

F. Permit Applications for Wind Energy Facilities.

- (1) Wind Energy Conversion Systems (WECS). Six (6) copies of the permit application, along with applicable fees, for Wind Energy Facilities shall be submitted to the Code Enforcement Officer (CEO). The CEO shall forward the application, if deemed complete, to the Planning Board for review. A joint application for the creation of a Wind Overlay Zone and special use permit for a WECS shall include the following:
 - a. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - b. Name and address of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
 - c. Address, or other property identification, of each proposed tower location, including Tax Map section, block and lot number.
 - d. A description of the project, including the number and maximum rated capacity of each WECS.
 - e. A site plan shall be prepared by a licensed surveyor or engineer drawn and in sufficient detail. In addition to the site plan requirements in §1103 the plan shall also include:
 - (i) Features noted in §1103.B(4) within 500' of the boundaries of the Overlay Zone. This shall include above and below ground utilities
 - (ii) All proposed facilities, access roads, electrical lines, substations, storage or maintenance areas, fencing, and ancillary structures. Location and size of structures above 35 feet within a five hundred foot radius of each of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures. The location and elevation of each proposed WECS with setback radii equal to 1 ½ times the tower height, 500' and 1,000' at each WECS shall also be detailed on the plans.
 - (iii) Proposed boundaries of the Wind Overlay Zone.
 - (iv) Location of the nearest residential structure on the Site and located off Site, and the distance from the proposed WECS.
 - f. Detailed wind tower information, which shall include:
 - (i) Elevation drawing of the WECS showing height, dimensions, and colors.
 - (ii) Safety equipment, including ladders, climbing pegs, fencing, access doors, and other details.
 - (iii) Manufacturer's information of each style of WECS utilized, including, but not limited to, make and model, noise decibels data, and material data safety sheet for the type and quantity of all materials used in the operation of all equipment.
 - g. Landscaping Plan depicting vegetation describing the area to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
 - h. Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building or zoning permit for any lighted facility may be issued until such determination is submitted.

- i. List of property owners, with their mailing address, within 500 feet of the boundaries of the proposed Wind Overlay Zone. The applicant may delay submitting this list until the Town Board calls for a public hearing on the application.
- j. Decommissioning Plan. The applicant shall submit a decommissioning plan, which shall include:
 - (i) the anticipated life of the WECS;
 - (ii) the estimated decommissioning costs in current dollars with a detailed description of how the estimate was determined;
 - (iii) the method of ensuring that funds will be available for decommissioning and restoration;
 - (iv) the method, such by annual re-estimate by a licensed engineer, the decommissioning cost will be kept current; and
 - (v) the manner in which the WECS will be decommissioned and the Site restored, which shall include removal of all structures and debris to a depth of three (3) feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
- k. Transportation and Traffic Plan. The construction of Wind Energy Facilities poses potential risks due to the large size of construction vehicles, their impact on traffic safety, and their physical impact on local roads. The Transportation and Traffic Plan shall include:
 - (i) A description of traffic routes to be utilized during the construction process. The routes shall be established during the review process, and shall include a review by applicable transportation agencies (NYS Dept. of Transportation, Town of York Highway Dept., etc.) Such routes shall minimize traffic impacts to local business operations and schools and minimize wear and tear on local roads.
 - (ii) A description of the transportation vehicles used during the construction process, including gross weights and heights of vehicles, trailers, and loads.
 - (iii) A plan for the protection of local highways and streets.
 - (iv) Remediation of damaged roads upon completion of the installation or maintenance of any WECS. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads.
 - (v) Maintenance of any seasonal highway during the off-season.
 - (vi) A plan for providing the community with advanced notice traffic routes and of any transportation activities that would have a significant impact on local traffic, such as the transportation or delivery of any oversized components,
- l. Complaint Resolution Plan. The application will include a complaint resolution process to address complaints from nearby residents. The process shall use an independent mediator or arbitrator and include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
- m. A construction schedule describing the commencement, completion, and any major milestone dates.
- n. Completed Part 1 of the Full EAF.
- o. If the applicant agrees in writing in the application that the proposed WECS may have a significant adverse impact on the environment, the Town Board may issue a positive declaration of environmental significance.
- p. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the aforementioned information shall be included in the Draft Environmental

Impact Statement (DEIS) prepared for a Wind Energy Facility. Otherwise, the following studies shall be submitted with the application.

- (i) Shadow Flicker. The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECS and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.
 - (ii) Visual Impact. Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed Site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.
 - (iii) A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed one.
 - (iv) Noise Analysis. A noise analysis by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and the nearest residence not on the site (if access to the nearest residence is not available, the Planning Board may modify this requirement). The noise analysis shall include low frequency noise.
 - (v) Property value analysis prepared by a licensed appraiser in accordance with industry standards, regarding the potential impact values of properties neighboring WECS sites.
 - (vi) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems and other wireless communication.
 - q. The special use permit shall contain a requirement that the applicant fund periodic noise testing by a qualified independent third-party acoustical measurement consultant, which may be required as often as every two years, or more frequently upon request of the Town Board in response to complaints by neighbors. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the special use permit and these regulations and shall also include an evaluation of any complaints received by the Town. The applicant shall have 90 days after written notice from the Town Board, to cure any deficiency. An extension of the 90 day period may be considered by the Town Board, but the total period may not exceed 190 days.
 - r. The applicant shall, prior to the receipt of a building permit, provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and the applicable Transmission Owner.
 - s. A statement, signed under penalties of perjury that the information contained in the application is true and accurate.
- (2) Small WECS. Applications for Small WECS special use permits shall include:
- a. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
 - b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
 - c. Address of the proposed tower site, including Tax Map section, block and lot number.

- d. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
- e. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code.
- f. Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
- g. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
- h. A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

- (3) Wind Measurement Towers. An application for a Wind Measurement Tower shall include:
 - a. Name, address, telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
 - b. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed applications and (ii) authorizing the submission of the application.
 - c. Address of each proposed tower site, including Tax Map section, block and lot number.
 - d. Site plan.
 - e. Decommissioning Plan, including a security bond or cash for removal.
 - f. Special use permits for Wind Measurement Towers may be issued for a period of up to two years. Permits may be renewed if the Facility is in compliance with the conditions of the special use permit.
 - g. An application for a Wind Measurement Tower may be jointly submitted with the WECS application.

G. WECS Standards. The following standards shall apply to all WECS, unless specifically waived by the Planning Board as part of a special use permit.

- (1) All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
- (2) No television, radio or other communication antennas may be affixed or otherwise made party of any WECS, except pursuant to the Town Zoning Law. Applications may be jointly submitted for WECS and telecommunications facilities.
- (3) No advertising signs are allowed on any part of the Wind Energy Facility, including fencing and support structures.
- (4) Lighting of tower. No tower shall be lit except to comply with FAA requirements. Minimum security lighting got ground level facilities shall be allowed as approved on the Site plan.
- (5) All applicants shall use measures to reduce the visual impact of WECS to the extent possible. WECS shall use tubular towers. All structures in a project shall be finished in a single, non- reflective matte finished color or a camouflage scheme. Individual WECS within a Wind Overlay Zone shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the Zone, to provide

- reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- (6) The use of guy wires is disfavored. A WECS using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.
 - (7) No WECS shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No WECS shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a WECS is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy electromagnetic interference is grounds for revocation of the Wind Energy Permit for the specific WECS causing the interference.
 - (8) All solid waste and hazardous waste and construction debris shall be removed from the Site and managed in a manner consistent with all appropriate rules and regulations.
 - (9) WECS shall be designed to minimize the impacts land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.
 - (10) WECS shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
 - (11) Wind energy conversion facilities shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations.
 - (12) Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.
 - (13) The maximum Total Height of any WECS shall be 440 feet.
 - (14) Construction of the WECS shall be limited to the hours of 6 a.m. and 9 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.

H. Small WECS Standards. All Small WECS shall comply with the following standards.

Additionally, such systems shall also comply with all the requirements established by other sections of this Chapter that are not in conflict with the requirements contained in this section.

- (1) Small WECS may be permitted in the same zoning areas as a WECS or any zoning district on a site of at least 5 acres, upon issuance of a special use permit.
- (2) A system shall be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application.
- (3) Only one small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which their joint lots shall be treated as one lot for purposes of this Chapter.
- (4) Small Wind energy systems shall be used primarily to reduce the on-site consumption of electricity.
- (5) Tower heights shall be 120 feet or less. The allowable height may be reduced as necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
- (6) The system's tower and blades shall be painted a non-reflective unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

- (7) The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g. public parks, roads, trails). To the greatest extent feasible a Small WECS:
 - a. If visible from public viewing areas, shall use natural landforms and existing vegetation for screening.
 - b. Shall be screened to the maximum extent feasible by natural vegetation or other means to minimize potentially significant adverse visual impacts on neighboring residential areas.
- (8) Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- (9) All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmissions poles, towers and lines. This standard may be modified by the decision-maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.
- (10) The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, they system operator shall promptly mitigate the harmful interference or cease operation of the system.
- (11) No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- (12) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
- (13) Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be re-graded and revegetated to the pre-existing natural condition after completion of installation.
- (14) To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least thirty (30) feet above the highest structure or tree within a 250 foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- (15) All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.

I. Wind Measurement Towers Standards.

- (1) The distance between a Wind Measurement Tower and the property line shall be at least the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

J. Noise Standards.

- (1) The statistical sound pressure level generated by a WECS shall not exceed L10-50dBA measured at the nearest inhabited off-site dwelling existing at the time of application. If the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.

- (2) In the event audible noise due to Wind Energy Facility operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise shall be reduced by five (5) dBA. A pure tone is defined to exist if the one-third (1/3) octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous one-third (1/3) octave bands by five (5) dBA for center frequencies of five hundred (500) Hz and above, by eight (8) dBA for center frequencies between one hundred sixty (160) Hz and four hundred (400) Hz, or by fifteen (15) dBA for center frequencies less than or equal to one hundred twenty-five (125) Hz.
- (3) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five (5) minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences, schools, hospitals, churches and public libraries. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project Site are sufficient to allow Wind Turbine operation, provided that the wind velocity does not exceed thirty (30) mph at the ambient noise measurement location.
- (4) Any noise level falling between two whole decibels shall be the lower of the two.
- (5) Except during short-term events including utility outages and severe wind storms, a Small WECS shall be designed, installed and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

K. Required Safety Measures.

- (1) Each WECS and Small WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor. The over-speed controls shall be certified by the manufacturer.
- (2) Unless the property submits a written request with evidence that no fencing would be required, a six-foot high fence with a locking portal shall be required to enclose each tower or group of towers. The color and type of fencing for each WECS installation shall be determined on the basis of individual applications as safety needs dictate.
- (3) Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. A sign shall be posted on the entry areas of fence around each tower or group of towers and any building (on the tower or building if there is no fence), containing emergency contact information, including a local telephone number with 24 hour, 7 day a week coverage. The Planning Board may require additional signs based on safety needs.
- (4) No climbing pegs or tower ladders shall be located closer than twelve (12) feet to the ground level at the base of the structure for freestanding single pole or guyed towers. A locked anti-climb device may also be required on the tower.
- (5) The minimum distance between the ground and any part of the rotor blade system shall be twenty (20) feet.
- (6) WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked.

L. Required Setbacks.

- (1) Each WECS shall be setback from the site boundaries the following distances, measured from the center of each WECS:
 - a. 500 feet from the nearest site boundary property line;
 - b. 500 feet from the nearest public road;

- c. 1,000 feet from the nearest off-site residence existing at the time of application, measured from the exterior or such residence.
- d. One and a half times the total height of the WECS from any non-WECS structure or any above-ground utilities.
- e. 100 feet from State-identified wetlands. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses and other factors that influence the flight patterns of resident birds.

- (2) A Small WECS shall not be located closer to a property line than one and a half times the total height of the WECS.
- (3) The distance between a Wind Measurement Tower and the property line shall be at least the Total Height of the tower. Sites can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

M. Noise and Setback Easements.

- (1) In the event the noise levels resulting from a Wind Energy Facility exceed the criteria established in these regulations or setback requirement is not met, a waiver may be granted from such requirement by the Town Board in the following circumstances:
 - a. Written consent from the affected property owners has been obtained stating that they are aware of the Wind Energy Facility and the noise and/or setback limitations imposed by this Local Law, and that consent is granted to: (1) allow noise levels to exceed the maximum limits otherwise allowed; or (2) all setbacks less than required; and
 - b. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's Office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of the decommissioning of the benefited WECS in accordance with this Chapter, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WECS.
- (2) Waivers granted under this subsection differ from variances in that no variance is required if a waiver is given under this subsection, and a variance must be sought rather than a waiver if the adjoining property owner will not grant an easement pursuant to this subsection.

N. Abandonment or Discontinuance of Use.

- (1) If any WECS remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Town Board, it shall remove said system at its own expense. Removal of the system shall include at least the entire above ground structure, including transmission equipment and fencing, from the property. This provision shall not apply if the applicant demonstrates to the Town that it has been making good faith efforts to restore the WECS to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
- (2) Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or lack of income generation. The applicant shall make available (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual Wind Energy Conversion Systems, if requested necessary to prove the WECS is functioning, which reports may be redacted as necessary to protect proprietary information.
- (3) Decommissioning Bond or Fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of non-functional towers and appurtenant facilities in an amount to be determined by the Town for the period of the life of the facility.

This fund may consist of a letter of credit from a State of New York-licensed financial institution. All costs of the financial security shall be borne by the applicant.

- (4) A small WECS which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that maybe attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town.

O. Limitations on Approvals, Easements on Town Property.

- (1) Nothing in these regulations shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the Wind Energy Facility. In addition, nothing in these regulations shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Facility. It shall be the sole responsibility of the Facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- (2) Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback, or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

ARTICLE VII.

Nonconforming Uses, Buildings and Lots

701. Intent

This Section regulates and limits the continued existence of uses, structures, and lots, and all accessory uses and structures, established prior to the effective date of this Chapter that do not conform to the regulations of this Chapter applicable in the zoning districts in which such nonconformities are located. Such nonconforming uses, buildings, or lots may be continued in conformance with the regulations set forth in this Chapter.

702. Alteration or Extension

- A. A use of land or a structure which does not conform to the regulations of this Chapter shall not be altered, reconstructed, extended or enlarged except in accordance with the following provisions:
- (1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became nonconforming.
 - (2) No nonconforming lot may be further reduced in size.
 - (3) No nonconforming building or structure shall be enlarged, extended, or increased unless such enlargement would tend to reduce the degree of nonconformance. This shall not be interpreted to prohibit additions to residential dwellings that do not impact the degree of nonconformance with regards to setbacks or minimum lot size.
 - (4) Nothing in this Chapter shall prevent the strengthening or restoration to a safe condition any wall, roof, floor, or other structural component which has been declared as unsafe by the Code Enforcement Officer under the NYS Uniform Codes.
 - (5) A business or operation within a nonconforming building or structure may be allowed to expand its operation or intensity provided the expansion has no negative impacts on the existing neighborhood character or infringe on public health, safety, and welfare. The owner operator must provide evidence of this to the Planning Board. This shall not apply to accessory uses or structures except to reduce the degree of nonconformance.
 - (6) A lot existing as of the effective date of these regulations which does not meet the dimensional requirements outlined in this Chapter may be developed provided that 60 percent of the dimensional requirements are met. (e.g. A lot that requires a 30 foot front setback may be developed with a 18 foot front setback.)

703. Restoration

No structure damaged by fire or other causes to the extent of more than seventy-five (75) percent of its fair market value shall be repaired, reconstructed or used except in conformity with the regulations of this Chapter. A structure with damage to the extent of seventy-five (75) percent or less of the fair market value may be reconstructed, repaired or used for the same nonconforming use provided:

- A. A zoning permit is requested and issued by the Code Enforcement Officer.
- B. The reconstructed structure shall not exceed the dimensions of the previous structure, except as provided in §702.
- C. Reconstruction begins within six (6) months from the date of damage, the structure is restored within twelve (12) months, and the work shall be carried on without interruption. This timeframe may be extended upon written appeal to the Zoning Board of Appeals, thirty (30) days prior to the expiration date of the twelve-month period.

- D. Failure to repair or reconstruct within the aforementioned timeframes shall cause the nonconforming use to be automatically terminated.
- E. Mobile and manufactured homes may be replaced only with mobile or manufactured homes which meet the standards set forth in this Chapter.

704. Abandonment/Discontinuance

- A. Whenever a nonconforming use has been discontinued for twelve (12) consecutive months, such use shall not thereafter be reestablished and any future use shall be in conformance with the provisions of this Chapter. The following conditions, which is not exclusive, shall contribute towards the discontinuance and abandonment of a use or structure:
 - (1) Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical hours); or
 - (2) Failure to maintain equipment, supplies, stock, or utilities which would be used for the active operation of the use; or
 - (3) Failure to maintain valid a Federal, State, or local permit or license that is required for the active operation of the use.
- B. Prior to a determination by the Code Enforcement Officer, based upon evidence of any of the above or other relevant evidence that the use or structure has been abandoned or discontinued, the owner or operator shall have the opportunity to apply for a Certificate of Pre-Existing Nonconformance.

705. Changes

Use or structures changed to a conforming and permitted use shall not be changed back to the previous nonconforming use. The new use is classified as changed when the prior use is terminated and the new use commences and continues for a period of seven (7) consecutive days. Ownership of a nonconforming use may change provided that the nonconforming use, structure or lot is not changed or altered in any way, except as provided in §702.

706. Displacement

No non-conforming use shall be extended to displace a conforming use.

707. District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

ARTICLE VIII. Administration

800. Enforcement.

The provisions of this Chapter shall be enforced and administered by the Code Enforcement Officer designated by the Town Board, who shall carry out the duties set forth in this Article. The Code Enforcement Officer shall keep a record of all applications, approved or denied, for zoning permits, special use permits, site plans, and variances. Such records shall be filed by the Code Enforcement Officer and shall be available for review by the Town Board of the Town of York, the Town Clerk, the Zoning Board of Appeals, the Planning Board, and, where applicable, the Livingston County Planning Board. The Planning Board and the Code Enforcement Officer of the Town of York shall issue no permit for the use of any property not in conformity with the requirements of this Chapter and all other regulations of the Town of York.

801. Duties of the Code Enforcement Officer.

- A. For the purpose of this Chapter, it shall be the duty of the Code Enforcement Officer, and any duly authorized assistants, to cause any plans, buildings or premises to be examined or inspected to determine that they are in conformance with the provisions of this Chapter, conduct inspections incidental to the investigation of written complaints, and to issue certificates, orders, and permits as outlined below.
- B. If, in the course of work, the Code Enforcement Officer determines that any plans, buildings or premises are in violation of the provisions of this Chapter, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall specify the nature of the violation found to exist, the remedy ordered and the time permitted for such action, the penalties and the remedies which may be invoked, and the alleged violator's right of appeal, all as provided for by this Chapter.
- C. If upon serving of notice by the Code Enforcement Officer to the owner of any building or premises in violation of any of the provisions of this Chapter, and satisfactory remedy is not completed in a timely manner as defined in the written order, or upon appeal the violation is upheld, the Certificate of Occupancy/Compliance for such building or use shall be held null and void. A new Certificate of Occupancy/Compliance shall be required for any use of such building or premises.
- D. The Code Enforcement Officer shall maintain a permanent record of all matters including, but not limited to, all applications, plans, specifications, construction documents, permits, Certificates of Occupancy/Compliance, inspections, reports, complaints, and fees and all actions taken. Such records shall be available for review by the Town Board and other municipal officials and shall be available for inspection by the public.
- E. The Code Enforcement Officer shall prepare a written monthly report to be presented to the Town Board listing all applications received, inspections made, referrals and actions taken on each. Copies of this report shall be transmitted to the Planning Board and Zoning Board of Appeals at the same time.
- F. Appearance Tickets. The Code Enforcement Officer and any duly authorized assistants are authorized to issue appearance tickets for any violation of this Chapter.

- G. Stop Work Order. The Code Enforcement Officer shall have the authority to obtain from the Town Justice or other court of competent jurisdiction, a stop work order to halt any work that is in violation of any of the provisions of this Chapter.

802. Certificates and permits.

- A. The certificates and permits enumerated herein are hereby established for the equitable enforcement and administration of the provisions of this Chapter. A zoning permit or special use permit shall be prerequisite to the erection or alteration of a building structure or use thereof, but only if the alteration increases the dimensions or changes the use of existing facilities thereof.
- B. Zoning permit. The Code Enforcement Officer is hereby empowered to issue a zoning permit for any plans regarding the construction or alteration of any building or part of any building or the change in the use of any land or building or part thereof, where it has been determined that such plans are not in violation of the provisions of this Chapter. Where a building permit is required in accordance with the NYS Uniform Code, the application for a building permit shall be submitted at the same time as the zoning permit application. No building permit shall be granted unless a zoning permit is issued by the Code Enforcement Officer. A zoning permit shall be issued or denied within ten (10) days after a completed application is submitted to the Code Enforcement Officer and following the approval of any special use permits, variances, site plans, or other certificates outlined in this Article. No zoning permit will be need for the re-erection of a structure that has been demolished and is rebuilt in-kind in the same location within six (6) months after demolition.
- C. Special use permit. Upon written direction from the Planning Board, the Code Enforcement Officer is hereby empowered to issue any special use permit provided for by this Chapter after site plan review, if required as specified in Article XI. Special use permits are those uses having some special impact or uniqueness which requires a careful review of their location, design, configuration and desirability on any given site. A special use permit may be issued with conditions that are directly related to and incidental to the proposed use, including requirements for review and renewal, based upon careful review by the Planning Board (see §905-D of this Chapter).
- D. Certificate of Occupancy/Compliance. The Code Enforcement Officer is hereby empowered to issue a Certificate of Occupancy/Certificate of Compliance which shall certify that all provisions of this Chapter have been complied with for any work which is the subject of a building permit. The NYS Uniform Code must be conformed to in order to receive a Certificate of Occupancy/Compliance for either a conforming or nonconforming use.
- E. Certificate of Pre-Existing Non-Conformance. The Code Enforcement Officer shall be permitted to issue, upon written notice from the owner of the premises, a Certificate of legal pre-existing non-conformance without charge within thirty (30) days of receipt of request. The Certificate should at a minimum define the extent of the non-conforming use, the sections of this Chapter not being conformed to, and be signed by the Owner/Operator and the Code Enforcement Officer.
- F. Certificate of Temporary Occupancy/Use. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy or use of a building or structure, or a portion thereof, or those uses listed in §512 of this Chapter, prior to completion of the work which is the subject of a zoning/building permit for no more than one (1) year. The temporary structure(s) shall be removed from the property or the temporary use shall no longer be allowed to

continue upon expiration of the certificate or issuance of a valid Certificate of Occupancy/Compliance. The certificate may be renewed upon expiration on authorization of the Zoning Board of Appeals. The Code Enforcement Officer shall in no event issue a temporary certificate unless the building or structure conforms to the provisions of the NYS Uniform Code relating to temporary occupancy.

803. Application Procedures.

A. Procedures for a zoning permit.

(1) All applications for a zoning permit shall be made in writing by the applicant or authorized representative on a form provided by or otherwise acceptable by the Code Enforcement Officer in the detail specified in §804.A of this Chapter. Where the proposed use is a permitted single- or two-family residential use or a permitted farm operation, the Code Enforcement Officer shall carefully consider the application for compliance with this Chapter and either issue or deny a zoning permit.

(2) Zoning and building permits shall be issued in duplicate and one copy shall be posted conspicuously on the premises while any alterations are being completed.

B. Procedures for appeal. Should an applicant choose to appeal a decision by the Code Enforcement Officer to deny issuance of a zoning permit, an application for an appeal shall be filled out within sixty (60) days, submitted along with supporting documents to the Code Enforcement Officer for referral to the Zoning Board of Appeals for action in accordance with §902. Where applicable under §239-m and §239-n of the General Municipal Law, one copy of the application shall also be submitted to the Livingston County Planning Board for their review and comment.

C. Procedures for special use permit. All applications for special use permits shall be made to the Code Enforcement Officer. The Code Enforcement Officer, after determining that an application is complete and in proper form, shall transmit one copy of the application and all supporting documents to the Planning Board for action thereon in accordance with §905.D. Where applicable under §239-m and §239-n of the General Municipal Law, one copy of the application shall also be submitted to the Livingston County Planning Board for their review and comment.

D. Procedures for a Certificate of Occupancy/Compliance. Following the completion of the construction, reconstruction or alteration of any building or where a change in the use of a structure is proposed, the applicant shall notify the Code Enforcement Officer stating that such construction or alteration has been completed. Within seven (7) days, the Code Enforcement Officer shall make all necessary inspections of the completed structure or proposed use to determine the conformance with any provisions set forth for approval. A Certificate of Occupancy/Compliance shall be issued only if the Code Enforcement Officer finds that the construction or proposed use complies with all the requirements and provisions of this Chapter.

804. Application details.

A. Application for a zoning permit. Each application for a zoning permit shall be made on forms available from the Code Enforcement Officer. Two (2) copies of the materials to be submitted with the application shall clearly show the conditions of the site at the time of the application, the features of the site which are to be incorporated into the proposed use or building and the appearance and function of the proposed use of building. One copy of such plan shall be returned to the owner when such plans have been approved by the Code Enforcement Officer. If Site Plan

Review is required, the applicant shall also submit plans as specified in Article XI. At a minimum, the application shall include the following information.

- (1) Description and extent of the proposed work;
- (2) Proof of ownership of the premises where the work is to be performed;
- (3) The tax map number and the street address of the premises where the work is to be performed;
- (4) Documentation from the Livingston County Health Department or its authorized agent that adequate water and sewer facilities exist or can be available to the site;
- (5) Documentation of an approved driveway or curb cut on a street or highway from the NYS Department of Transportation, County or Town Highway superintendent;
- (6) A valid permit or license as required for any Federal, State, County or Town uses; and
- (7) At least two (2) sets of plans or drawings drawn to scale that show:
 - a. The location, dimensions, and height of existing and proposed buildings, structures, or uses in relation to property lines, right-of-way lines, and any significant natural features.
 - b. Natural features on the property, including, but not limited to natural water courses, ponds and wetlands, drainageways, wooded areas, rock outcroppings, and steep slopes.
 - c. The number, location, and design of parking and loading spaces, if applicable.
 - d. The dimensions, location, and method of illumination of any signs, if applicable.
 - e. Location of existing and proposed utilities, wells, and septic systems located on the property. Permits which require new, altered, or expanded on-site septic systems shall not be issued until a certificate of approval is issued by the appropriate authority.
 - f. Any additional plans, specifications, or information reasonable necessary for the Code Enforcement Officer to determine if the proposed use, change in use, erection, or alteration conforms to the provisions of this Chapter.

B. Application for a special use permit. Each application for a special use permit shall be made on forms available from the Code Enforcement Officer and shall contain at least the following information.

- (1) The applicant's name and address and interest in the subject property.
- (2) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
- (3) The street address or legal description of the subject property.
- (4) An application for site plan approval, if required and in conformance with Article XI (Site Plan Review and Approval) of this Chapter.
- (5) A written statement addressing each of the standards set forth in §905.D(2) and stating specifically how the proposed special use permit relates to and meets each such standard.
- (6) An agricultural data statement if the proposed use is on or within 500 feet of a County adopted agricultural district, pursuant to §305-a. of the NYS Agriculture and Markets Law.
- (7) If required, an Environmental Assessment Form (EAF) in compliance with the State Environmental Quality Review Act (SEQRA) and §274-b(8) of the NYS Town Law. Type I actions require a Full EAF and unlisted actions require a short form EAF or full EAF, at the discretion of the applicant.
- (8) Any additional information which may be required or requested by the Code Enforcement Officer to demonstrate compliance with any additional standards imposed on the special use permit by the particular provision of this Chapter authorizing the special use.

C. Application Completeness. An application shall be considered complete if submitted on the required form(s) and includes all mandatory information specified above. A determination of completeness shall be made within five (5) days. If an application is deemed incomplete, the Code Enforcement Officer shall provide a written notice to the applicant explaining the application's deficiencies. No further action or processing of the application shall occur until

stated deficiencies are remedied. If the deficiencies are not corrected by the applicant within 30 (thirty) days, the application will be considered withdrawn and returned to the applicant.

805. Application fees.

Each application for a permit provided for by this article shall be accompanied by a fee, payable in cash or other form of security, approved by the Municipal Attorney in accordance with the schedule established by resolution of the Town Board. For uses or structures on an agricultural operation, a zoning permit is required but shall not require a fee. The fee schedule is provided in the "Fee Schedule" in the Town Code and is also available at the Town Clerk's Office.

806. Public hearing.

Public hearings shall be required for certain actions related to appeals, permits, and site plan review. The Zoning Board of Appeals shall conduct a public hearing on applications referred to it by the Code Enforcement Officer in accordance with the procedures and requirements established in NYS Town Law §267-a for appeals. The Planning Board shall hold a public hearing on applications referred to it in accordance with the procedures and requirements established in NYS Town Law §274-b for special use permit and/or NYS Town Law §274-a for site plan review. Public notice of all such hearings shall be printed in an official newspaper of general circulation at least ten (10) days prior to the date of the hearing and a copy of the notice sent to the applicant, other agencies, authorities, municipalities according to NYS Town Law §267-a, §267-b, and General Municipal Law §239-n and §239-nn. Specific notice requirements for hearings vary as outlined in the appropriate sections of this Chapter.

807. State Environmental Quality Review Act (SEQRA).

- A. SEQRA requires that local governments examine the environmental impacts of all actions they permit, fund, or construct, with the exceptions of those actions listed under §617.5 of Chapter 6 of the NYS Environmental Conservation Law. The lead agency shall coordinate the review of any SEQRA forms with other departments or Boards of the Town to minimize repetitive reviews. For an action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board:
 - (1) Zoning text and district amendments – Town Board
 - (2) Special use permits and Site plans – Planning Board
 - (3) Variances and Zoning interpretations – Zoning Board of Appeals
- B. If in the opinion of the local lead agency, after review of the Environmental Assessment Form, there appears the potential for a significant environmental impact, the lead agency shall cause the applicant to prepare an Environmental Impact Statement (EIS) as part of the application. Review, notice and action on the EIS shall be conducted according to Part 617 of 8 NYCRR.

808. Revocation and expiration of permits.

- A. If the Code Enforcement Officer determines that a zoning permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a zoning permit was issued violates this Chapter or the Town Code, the Code Enforcement Officer shall revoke or suspend the zoning permit until such time as the Permit Holder demonstrates that all work completed or proposed to be performed is in conformance with all applicable provisions of this Chapter and the Town Code.

B. Zoning permits shall become void after a period of six (6) months from the date of issuance unless actual construction or alterations have been started pursuant to such zoning permit, in which case the zoning permit shall become void after a period of twelve (12) months from the actual date of the time or start of construction, unless otherwise specified by the Town. When the time of starting construction or the time of completion of construction exceeds the aforementioned periods, an application may be made for an extension to the existing zoning permit for no more than six (6) months. If additional time is needed, an application for a new permit shall be required. No zoning permit will be need for the re-erection of a structure that has been demolished and is rebuilt in-kind in the same location within six (6) months after demolition.

ARTICLE IX.

Boards

900. Creation, appointment and organization of Zoning Board of Appeals.

- A. A Zoning Board of Appeals, pursuant NYS Town Law §267, is hereby created by the Town Board of the Town of York.
- B. Appointment of members. The Zoning Board of Appeals shall consist of 5 (five) members and up to two (2) alternates. The Town Board shall empower the Supervisor to designate the chairperson thereof. In the absence of a chairperson, the Board of Appeals may designate a member to serve as acting chairperson.
- C. Appropriation of Zoning Board of Appeals. The Town Board is hereby authorized and empowered to make such appropriation as it may see fit for the Zoning Board of Appeals expenses. Such charges and expenses less fees, if any collected, shall be a charge upon the taxable property and shall be assessed, levied and collected. The Zoning Board of Appeals shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Town Board for such Zoning Board of Appeals.
- D. Compensation. The Town Board may, as part of the annual budget, provide for the compensation of Zoning Board of Appeals members and alternates. If compensation is provided for, it shall be on a "per meeting attended" basis. In addition, the Town shall provide reimbursement for all approved training and out-of-pocket expenses associated therewith.
- E. Members ineligible. No person who is an officer or employee of the Town, including the Town Board and Planning Board, or any of the Town's agencies or departments shall be eligible for membership on the Board of Appeals.
- F. Terms of members first appointed. In the creation of a new Board of Appeals, or the reestablishment of terms of an existing Board, the appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of each year thereafter. At the expiration of each original member's appointment, the replacement member shall be appointed for a five-year (5) term.
- G. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.
- H. Removal of members. Any Zoning Board of Appeals member may be removed for cause by the Town Board or for non-compliance with minimum requirements as set forth in §901 of this Article at any time, provided, however that before such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.
- I. Chairperson duties. All meetings of the Board of Appeals shall be held at the call of the chairperson and at such other times as such Board may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

901. Minimum requirements for Zoning Board of Appeals members.

- A. Training. Each Board member is required to complete a minimum of four (4) hours of training per calendar year in accordance with NYS Town Law §267-7a. At the discretion of the remaining members or the Town Supervisor, failure to comply with this requirement is grounds for recommending removal from the Board.
- B. Attendance. Each Board member shall be required to attend 75 percent of the scheduled meetings in each calendar year. At the discretion of the Town Board, failure to attend the required number of meetings may be grounds for removal from the Board. In addition, failure to attend three (3) consecutive meetings may be grounds for removal from the Board.

902. Powers and duties of the Zoning Board of Appeals.

The Zoning Board of Appeals shall have all the powers and duties prescribed by §267-b of the NYS Town Law of the State of New York and by this Chapter. These powers and duties are more particularly specified as follows:

- A. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this Chapter, including determination of the exact location of any district boundary if there is uncertainty with respect hereto.
- B. Appeals. The Zoning Board of Appeals shall hear and decide appeals from, and review orders, requirements, decisions, or determinations, including any order requiring an alleged violator to stop, cease, and desist, made by the Code Enforcement Officer in the enforcement of this Chapter.
- C. Variances. The variance procedure is intended to provide a means by which relief or modifications may be granted from unforeseen particular applications of this Chapter that create unnecessary hardships or practical difficulties. Only when such hardships or difficulties are not appropriate for remedy pursuant to other provisions of this Article is the variance procedure appropriate. In such cases, the Zoning Board is empowered to grant exceptions in harmony with the general purpose and intent of this Chapter and the compatibility with the Town of York Comprehensive Plan. Variances will be granted in appropriate and specific cases only after public notice and hearing and subject to such appropriate conditions and safeguards the Zoning Board of Appeals may impose.
 - (1) Variance application. An application for a variance shall be made to the Code Enforcement Officer on appropriate forms, accompanied by the necessary fees and supporting documentation as provided in this Chapter and regulations issued hereunder. The following additional information shall also be required:
 - a. The application shall be accompanied by a map drawn to scale and showing existing and proposed characteristics of the site and adjacent properties necessary for consideration of the variance request.
 - b. Where site plan approval is required, a preliminary plan in accordance with Article XI of this Chapter shall be submitted.
 - c. An application for a use variance, if in or within 500 feet of an agricultural operation in a County agricultural district, shall be accompanied by an agricultural data statement.

- (2) Variance Standards. As used in this Chapter, a variance is authorized for height, area, size of structure, size of yards and open spaces, or for establishment or expansion of a use otherwise not allowed. A variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.
- a. Use Variance. No such use variance shall be granted by a board of appeals without a showing by the applicant, that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to grant the use variance, the applicant has the burden to prove their application meets EACH and EVERY of the below criteria pursuant to NYS Town Law §267-b:
 - (i) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (ii) The alleged hardship relating to the property in question must be unique, and not apply to a substantial portion of the district or neighborhood;
 - (iii) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (iv) That the alleged hardship has not been self-created.
 - b. Area Variance. In order to grant the area variance the applicant has the burden to prove that their application meets the required criteria. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - (i) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - (ii) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - (iii) Whether the requested area variance is substantial.
 - (iv) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - (v) Whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
 - c. The Zoning Board of Appeals, in the granting of area and use variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 - d. Imposition of conditions: The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- (3) Variance Procedures. All applications for variances along with any supporting documentation shall be forwarded to the Zoning Board of Appeals after initial submission to the Code Enforcement Officer.
- a. Public Hearing. A public hearing shall be set, advertised, and conducted by the Zoning Board of Appeals in accordance with §806 of this Chapter. The cost of sending or

publishing any notices relating to such appeal, or a reasonable fee relating thereto, shall be borne by the appealing party and shall be paid to the board prior to the hearing of such appeal.

- b. Action by the Zoning Board of Appeals. Within sixty-two (62) days following the close of the public hearing, following a report back from the Livingston County Planning Board when applicable, the Board of Appeals shall make its decision on the variance application. This timeframe may be extended upon mutual consent of the Board and the applicant. The Board shall communicate its action in writing, along with any required findings, to the applicant and the Code Enforcement Officer within five (5) days of the final decision. The decision shall be filed with the Town Clerk within the same timeframe.
- c. Action by the Code Enforcement Officer. Upon receipt of the notice of variance approval from the Board of Appeals and upon application for a zoning permit with the required fees by the applicant, the Code Enforcement Officer shall issue a zoning permit subject to any conditions imposed by such approval.
- d. Appeal. An applicant may appeal the final decision of the Zoning Board of Appeals regarding the variance within thirty (30) days after the filing of the final decision to the State Supreme Court in accordance with Article 78 of the NY Civil Practice Law and Rules and NYS Town Law §267-c.

903. Creation, appointment and organization of Planning Board.

- A. A Planning Board, pursuant to NYS Town Law §271 is hereby created by the Town Board of the Town of York.
- B. Authorization. The Planning Board shall consist of five (5) members and up to two (2) alternates. The Town Board shall appoint the members of such Board and the Planning Board members shall elect the officers, the chairperson, vice-chairperson, and secretary, for the ensuing year. In the absence of a chairperson, the vice-chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the chairperson. In the absence of the secretary, the officer presiding shall designate another member as secretary pro tempore.
- C. Appropriation for Planning Board. The Town Board is hereby authorized and empowered to make such appropriation as it may see fit for Planning Board expenses. Such charges and expenses less fees, if any collected, shall be a charge upon the taxable property and shall be assessed, levied and collected. The Planning Board shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made therefore by the Town Board for such Planning Board.
- D. Compensation. The Town Board may, as part of the annual budget, provide for the compensation of Planning Board members and alternates. If compensation is provided for, it shall be on a per meeting attended basis. In addition, the Town shall provide reimbursement for all approved training and out-of-pocket expenses associated therewith.
- J. Members ineligible. No person who is an officer or employee of the Town, including the Town Board and Planning Board, or any of the Town's agencies or departments shall be eligible for membership on the Board of Appeals.
- E. Terms of members first appointed. The terms of members of the Planning Board shall be for terms so fixed that the term of one member shall expire at the end of the calendar year in which such members were initially appointed. The terms of the remaining members shall be so fixed

that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a five-year (5) term.

- F. Vacancy in office. If a vacancy shall occur other than by expiration of term, the Town Board shall appoint the new member for the unexpired term.
- G. Removal of members. Any Planning Board member may be removed for cause by the Town Board or for non-compliance with minimum requirements as set forth in §904 of this Article at any time, provided, however that before such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.
- H. Chairperson duties. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such Board may determine. Such chairperson, or in his or her absence, the vice-chairperson, may administer oaths and compel the attendance of witnesses.
- I. Planning Board By-Laws. The Planning Board shall prepare and adopt by-laws from time to time outlining meeting times and related procedures.

904. Minimum requirements for Planning Board members.

- A. Training. Each Board member is required to complete a minimum of four (4) hours of training per calendar year in accordance with NYS Town Law §267-7a. At the discretion of the remaining members or the Town Supervisor, failure to comply with this requirement is grounds for recommending removal from the Board.
- B. Attendance. Each Board member shall be required to attend 75 percent of the scheduled meetings in each calendar year. At the discretion of the Town Supervisor, failure to attend the required number of meetings without good cause may be grounds for removal from the Board. In addition, failure to attend three (3) consecutive meetings without good cause may be removal from the Board.

905. Powers and duties of Planning Board.

The Planning Board shall have the powers and duties as specified below.

- A. Plats. The Planning Board may approve plats showing lots, blocks or sites, with or without streets or highways, and conditionally approve preliminary plats and pass and approve the development of plats already filed in the office of the Clerk of the County of Livingston if such plats are entirely or partially undeveloped.
- B. Street changes. The Planning Board has the power and authority to change the Town's Official Map by approving or disapproving changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the office of the Clerk of said county and the laying out, closing off or abandonment of streets, highways or public areas under the provisions of the NYS Highway Laws. Street name changes shall be made in accordance with Article VI, Section 3 of the Subdivision Regulations. The Planning Board shall consult with the Town Engineer, Town Highway Superintendent, and/or any other agencies that may have authority over existing streets or highways in the Town prior to making a final decision.

- C. Site plan. The Planning Board will approve, approve with conditions or deny site plans in accordance with Article XI (Site Plan Review and Approval) of this Chapter.
- D. Special use permits. As specified in §802.C of this Chapter, a special use permit is required for uses that have some special impact or uniqueness which requires a careful review of their location, design, and special impact against the standards and any additional regulations set forth in this Chapter. The Planning Board will hear and decide upon application for such permits as specified in this Chapter.
- (1) Application. An application for a special use permit shall be made in accordance with §804 of this Chapter.
 - (2) Standards. A permit for any special permit use shall be granted by the Planning Board if evidence is presented by the applicant showing that:
 - a. The proposed building or use will be in harmony with the general purpose, goals, objectives and standards of the Town's long term planning goals, including the Town's Comprehensive Plan, and this Chapter.
 - b. The proposed building, use, or intensity of operation involved will not have a substantial or undue adverse effect upon any adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
 - c. The proposed building or use will be constructed, arranged and operated so as not to dominate the immediate vicinity, or to interfere with or devalue the development and use of neighboring property in accordance with the applicable district regulations.
 - d. The proposed building or use will be adequately served by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, schools; or that the applicant or agency responsible for the establishment of the proposed use will provide adequately for such services.
 - e. The proposed building or use complies with all additional standards imposed on it by the particular provision of this Chapter authorizing such use.
 - f. All steps possible have been taken to minimize any adverse effects of the proposed building or use on the immediate vicinity through building design, site design, landscaping and screening and that the proposed building or use will not result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.
 - (3) Additional Factors. In the review and approval of special use permits, the following additional factors shall be considered:
 - a. General conformance with the Town of York long term planning goals and guidelines for development associated with them.
 - b. Consistency with development standards and guidelines of the zoning district in which it is located.
 - c. Criteria for the review of site plans enumerated in Article XI (Site Plan Review and Approval) of this Chapter.
 - (4) Procedures. All applications for special use permits along with any supporting documentation shall be forwarded to the Planning Board after initial submission to the Code Enforcement Officer.
 - a. Variances. Where a special use permit contains features that require an area variance, an application may be made to the Zoning Board of Appeals for action on said variance. Final action of the special use permit shall not be made until the Zoning Board of Appeals makes its decision on the variance application in accordance with §902-C(3) of this Chapter.
 - b. Public Hearing. The Planning Board shall conduct a public hearing within sixty-two (62)

days upon receipt of a completed application. The public hearing shall be advertised and conducted by the Planning Board in accordance with §806 of this Chapter.

- c. State Environmental Quality Review Act (SEQRA). Pursuant to NYS Town Law §274-b(8) the Planning Board shall comply with the provisions of SEQRA under the NYS Environmental Conservation Law prior to making a final decision on the special use permit.
- d. Action by the Planning Board. Within sixty-two (62) days following the close of the public hearing, following a report back from the Livingston County Planning Board when applicable, the Planning Board shall make its decision on the special use permit application. This timeframe may be extended upon mutual consent of the Board and the applicant. The Board shall communicate its action in writing, along with any required findings, to the applicant and the Code Enforcement Officer within five (5) days of the final decision. The decision shall be filed with the Town Clerk within the same timeframe. The following decisions can be made by the Board:

- (i) If an application is approved or approved with conditions by the Planning Board, the Code Enforcement Officer shall be furnished with a copy of the Board's approving resolution, which shall outline any conditions imposed and the reasoning for the conditions, and shall issue the permit applied for in accordance with any conditions imposed by the Board.
- (ii) If the Planning Board disapproves an application, the reasons for such denial shall be set forth in the Board's resolution, and a copy of such resolution shall be transmitted to the Code Enforcement Officer. The Code Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval and the procedures for appeal.

- (5) Appeal. An applicant may appeal the final decision of the Planning Board regarding the special use permit within thirty (30) days after the filing of the final decision to the State Supreme Court in accordance with Article 78 of the NY Civil Practice Law and Rules and NYS Town Law §274-b(11) and §267-c.

906. Conflicts with other laws.

Whenever the requirements of this Chapter vary from the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or those imposing the higher standards shall govern, except where the NYS Uniform Code applies, those regulations shall govern.

907. Amendments.

- A. The regulations, restrictions, uses and boundaries provided in this Chapter and the Official Map may be amended, supplemented, changed, modified or repealed in accordance with the provisions of Section 265, Article 16, Chapter 62 of the Consolidated Laws of New York State for all property in the Town of York and all other applicable laws of the State of New York and in accordance with the following procedures.
- B. Whenever any person, firm or corporation desires that any amendments or changes be made in this Chapter, including the text and/or the Zoning Map as to any property in York, there shall be presented to the Town Board a petition requesting such change or amendment. The petition shall clearly describe the property and its boundaries and shall indicate the existing zoning district and the requested zoning district. The petition shall also show existing highways, municipal boundary lines and state parks, name and addresses of all property owners bordering the proposed

change. A filing fee pursuant to regulations adopted by the Town Board shall be paid at the time of filing the petition.

- C. All such amendments shall be referred to the Planning Board for review and recommendation.
- D. Prior to the final action of the Town Board, the proposed amendment must be referred to the Livingston County Planning Board for their review and recommendation.

ARTICLE X. Violations

1000. Enforcement.

It shall be the duty of the Code Enforcement Officer and any duly authorized assistants or deputies to enforce the provisions of this chapter and to enforce any determination of the Zoning Board of Appeals and the Planning Board. Any complaints shall be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate the report thereon.

1001. Penalties for offenses.

Any person violating any of the provisions of this chapter shall be subject to a fine of not more than \$500 or imprisonment not to exceed six (6) months, or both.

1002. Continued violation.

From the date of initial violation notice, each week or seven (7) days of continued violation shall be considered a separate and distinct offence.

1003. Other relief.

Nothing contained in this article shall preclude the municipality or its agents from seeking such other relief as may be lawful in order to compel adherence to the terms of this chapter and otherwise enforce the same.

ARTICLE XI.

Site Plan Review and Approval

1100. Intent

The purpose of Site Plan Review is to implement the recommendations of the Comprehensive Plan. Specifically, Site Plan Review is intended to determine compliance with the objectives of this chapter where inappropriate development may cause a conflict between uses in the same or adjoining zoning district by creating conditions which could adversely affect the public health, safety or general welfare.

1101. Applicability

Prior to the issuance of a zoning permit, building permit, special use permit, variance or other discretionary approval required from the Code Enforcement Officer, Planning Board or Zoning Board of Appeals for construction, alteration or change of use in any district, except for a one-family or two-family dwelling and related accessory uses, or an agricultural operation permitted by right, the Code Enforcement Officer shall require the preparation of a site plan. The Code Enforcement Officer shall refer the site plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this article.

1102. Sketch Plan Conference

- A. Applicants shall meet with the Code Enforcement Officer and/or the Planning Board to review the basic site design concept and determine the information to be required on the preliminary site plan. The purpose of the sketch plan conference is to discuss with the applicant the project's conformity with the York Comprehensive Plan, to determine whether the activity is subject to the performance standards of §516, and to advise the applicant of other issues or concerns. The sketch plan conference provides an opportunity to indicate whether the proposal, in its major features, is acceptable or whether it should be modified before expenditures for more detail plans are made. The Code Enforcement Officer and/or Planning Board may waive required items in the preliminary site plan based upon discussion of the proposed development during this time.
- B. Required data. Information to be included on the sketch plan is as follows:
 - (1) An area map showing the parcel under consideration for Site Plan Review and all parcels, structures, subdivisions, streets, driveways, easements and permanent open space within 200 feet of the boundaries thereof or at the discretion of the Code Enforcement Officer.
 - (2) A map of site topography at no more than five-foot contour intervals or at the discretion of the Code Enforcement Officer shall be provided. If general site grades exceed 5% or if portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and topographic map showing contour intervals of not more than two feet of elevation should also be provided.
 - (3) General identification of all existing natural features and utilities on the site and in the area.
 - (4) The location of all existing and proposed structures on the site and designated uses for each.
 - (5) Identification of existing zoning classification(s) of the property and all adjacent properties and any restrictions on land use of the site.

1103. Preliminary Site Plan Application

- A. Application for preliminary site plan approval. An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Code Enforcement Officer at the sketch plan conference. All site plan information and building designs shall be prepared by a licensed architect or engineer.
- B. Preliminary site plan checklist. Additional design standards and directions regarding the items to be shown on specific plan sheets may be found in the administrative checklist available from the Code Enforcement Officer. The preliminary site plan shall include:
 - (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - (2) North arrow, graphic scale and date.
 - (3) Boundaries of the property, plotted to scale.
 - (4) The location of existing property lines, easements, structures, streets, driveways and natural features within 200 feet of the proposed site or at the discretion of the Town Board. Natural features subject to other state or federal regulations which may restrict development.
 - (5) Grading and drainage plan, showing existing and proposed contours. The drainage plan shall also clearly explain the methodology used to project stormwater quantities and the resultant peak flow conditions.
 - (6) Location, proposed use, hours of operation and height of all buildings. Summary of the amount of square footage devoted to each use requiring off-street parking or loading.
 - (7) Number, location, design and construction materials of all parking and loading areas, showing access and egress. Location of reserved parking areas as required by the off-street parking regulations of Article V, §519.
 - (8) Provision for pedestrian access.
 - (9) Size, type, location and screening of all facilities used for recycling and disposal of solid waste.
 - (10) Location, dimensions and vehicle capacity of drive-in facilities and related queuing lanes.
 - (11) Building elevation(s) showing building massing, window and door spacing and treatments and other architectural features; and indication of building materials suitable to evaluate architectural compatibility.
 - (12) Location, purpose and holder of all proposed easements or dedications for utilities, recreation, conservation or other purpose.
 - (13) Location, size, screening and type of material for any proposed outdoor storage.
 - (14) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
 - (15) Description of the type and quantity of sewage expected, the method of sewage disposal and the location, design and construction materials of such facilities.
 - (16) Description of the type and quantity of water supply needed, the method of securing water supply, and the location, design and construction materials of such facilities.

- (17) Location of fire and other emergency zones, including the location of fire hydrants.
- (18) Location, design and construction material of all energy-distribution facilities, including electrical, gas and wind power and solar energy and other public utility facilities, such as cable or phone service.
- (19) Location, size, design and construction materials of all proposed signs.
- (20) Location of proposed buffer areas, including existing vegetative cover.
- (21) Location, type, height, brightness and control of outdoor lighting facilities.
- (22) Size, location and use of recreation areas for multifamily dwellings as required by §612.
- (23) Identification of permanent open space or other amenities provided in conjunction with cluster or incentive zoning provisions.
- (24) A table summarizing each building footprint, total size in square feet and number of stories; the number of dwelling units and the amount of square feet devoted to each use type; size, in square feet or acres, of access, parking and circulation areas and the number of loading, queuing and parking spaces; size in square feet of landscaped and natural open space; and size in square feet and text of all signs.
- (25) A landscaping plan and planting schedule in accordance with §520.
- (26) Other elements integral to the proposed development as considered necessary by the Planning Board, to include showing railroads or any other type of transportation facilities not specified.
- (27) All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).
- (28) An agricultural data statement if the proposed use is located on or within 500 feet of a farm operation in a county agricultural district.
- (29) For all developments disturbing more than one acre, New York State Department of Environmental Conservation (NYSDEC) requires that Municipalities receive a copy of the Storm Water Pollution Prevention Plan (SWPPP) prior to plan approval. The owner is required to comply with the NYSDEC's "SPDES General Permit for Storm Water Discharge from Construction Activity" Permit # GP-02-01.

C. Required fee. The fee will be established by the Town Board and paid when the application is made.

1104. Planning Board Review of Preliminary Site Plan

The Planning Board's review of a preliminary site plan shall include, as appropriate, but is not limited to, the following:

A. General considerations as to:

- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls for parking, loading and drive-in facilities.
- (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience. In general sidewalks shall be required along all dedicated roads on lots within 1,000 feet of a school, park or residential concentration.

- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (4) Location, arrangement, size, design and general architectural and site compatibility of buildings, lighting, signs and landscaping.
 - (5) Adequacy of stormwater calculation methodology and stormwater and drainage facilities to eliminate off-site runoff and maintain water quality.
 - (6) Adequacy of water supply and sewage disposal facilities.
 - (7) Size, location, arrangement and use of required open space and adequacy of such open space to preserve scenic views and other natural features, to provide wildlife corridors and habitats, to provide suitable screening and buffering; and to provide required recreation areas.
 - (8) Suitability of proposed hours of operation.
 - (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or other similar nuisances.
 - (10) Adequacy of community services, including fire, ambulance and police protection, and on-site provisions for emergency services, including fire lanes and other emergency zones, fire hydrants and water pressure.
 - (11) Adequacy and unobtrusiveness of public utility distribution facilities, including those for gas, electricity, cable television and phone service. In general, all such utility distribution facilities shall be required to be located underground.
 - (12) Making provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof.
 - (13) Conformance with the York Comprehensive Plan and other planning, land use, or development studies.
 - (14) Conformance with density, lot size, height, yard and lot coverage and all other requirements of district regulations.
- B. Applicant to attend Planning Board meeting. Applicant and/or duly authorized representative shall attend the meeting of the Planning Board where the plan is reviewed.
- C. Site plans shall also conform to the performance standards of §516.
- D. Consultant review. The Planning Board may consult with the Town Board, Code Enforcement Officer, Highway Superintendent and other appropriate local and county officials and departments and its designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.
- E. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of a completed application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Town of York at least ten (10), but not more than thirty (30) days before the public hearing.

1105. Planning Board Action on Preliminary Site Plan

- A. Within sixty-two (62) days after public hearing or within sixty-two (62) days after the application was filed if no hearing was held, the Planning Board shall act on the application for preliminary site plan approval. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.
- B. The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

1106. Final site Plan Approval Procedure

- A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim, the Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review. The Planning Board may also require a new public hearing. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliance shall be clearly indicated by the applicant on the appropriate submission.
- B. The following additional information shall accompany an application for final site plan approval.
 - (1) Record of application for and approval status of all necessary permits from local, state and county officials.
 - (2) An estimated project construction schedule.
 - (3) A legal description of all areas proposed for municipal dedication.
 - (4) A conservation easement or other recordable instrument executed by the owner for any permanent open spaces created and whether such open space is the result of Site Plan Review, clustering or incentive zoning provisions.
- C. If no building permit is issued within one calendar year from the date of final site plan approval, the final site plan approval shall become null and void.

1107. Referral to County Planning Board

Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the Livingston County Planning Board for advisory review and a report in accordance with §239-m of General Municipal Law.

1108. Planning Board Action on Final Site Plan

- A. Within sixty-two (62) days of receipt of the application for final site plan approval, the Planning Board shall notify the Code Enforcement Officer, in writing, of its decision. The Planning Board shall file its decision with the Town Clerk within five days of the final Planning Board decision.
- B. Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due and letter of credit if required, the Planning Board shall endorse its approval on a copy of the final site plan. A copy of the approved final site plan shall be filed with the Code Enforcement Officer and may be provided to the applicant.
- C. Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer, and the Code Enforcement Officer shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval. The Planning Board shall file its decision with the Town Clerk within five days of the final Planning Board decision.

1109. Reimbursable Costs

Costs incurred by the Planning Board for consultation fees or other extraordinary expense in connection with the review of a proposed site plan or inspection of required improvements shall be charged to the applicant. Estimated review fees shall be deposited into an escrow account when making application for preliminary site plan approval. Estimated inspection fees shall be deposited into an escrow account prior to Planning Board endorsement of final site plan approval.

1110. Letter of Credit

No Certificate of Occupancy shall be issued until all improvements shown on the site plan are installed or an irrevocable letter of credit has been posted for improvements not yet completed. The letter of credit shall be approved as to form by the Municipal Attorney and as to amount by the Municipal Engineer. The member of the Planning Board designated to sign site plans shall not sign until a letter of credit, if required, has been received by the Code Enforcement Officer and approved by the Town Board.

1111. Inspection of Improvements

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements. The applicant shall be responsible for advance notice for inspection coordination with officials and agencies, as appropriate. The Code Enforcement Officer may retain the services of a qualified private consultant to assist with inspection of site improvement.

1112. Integration of Procedures

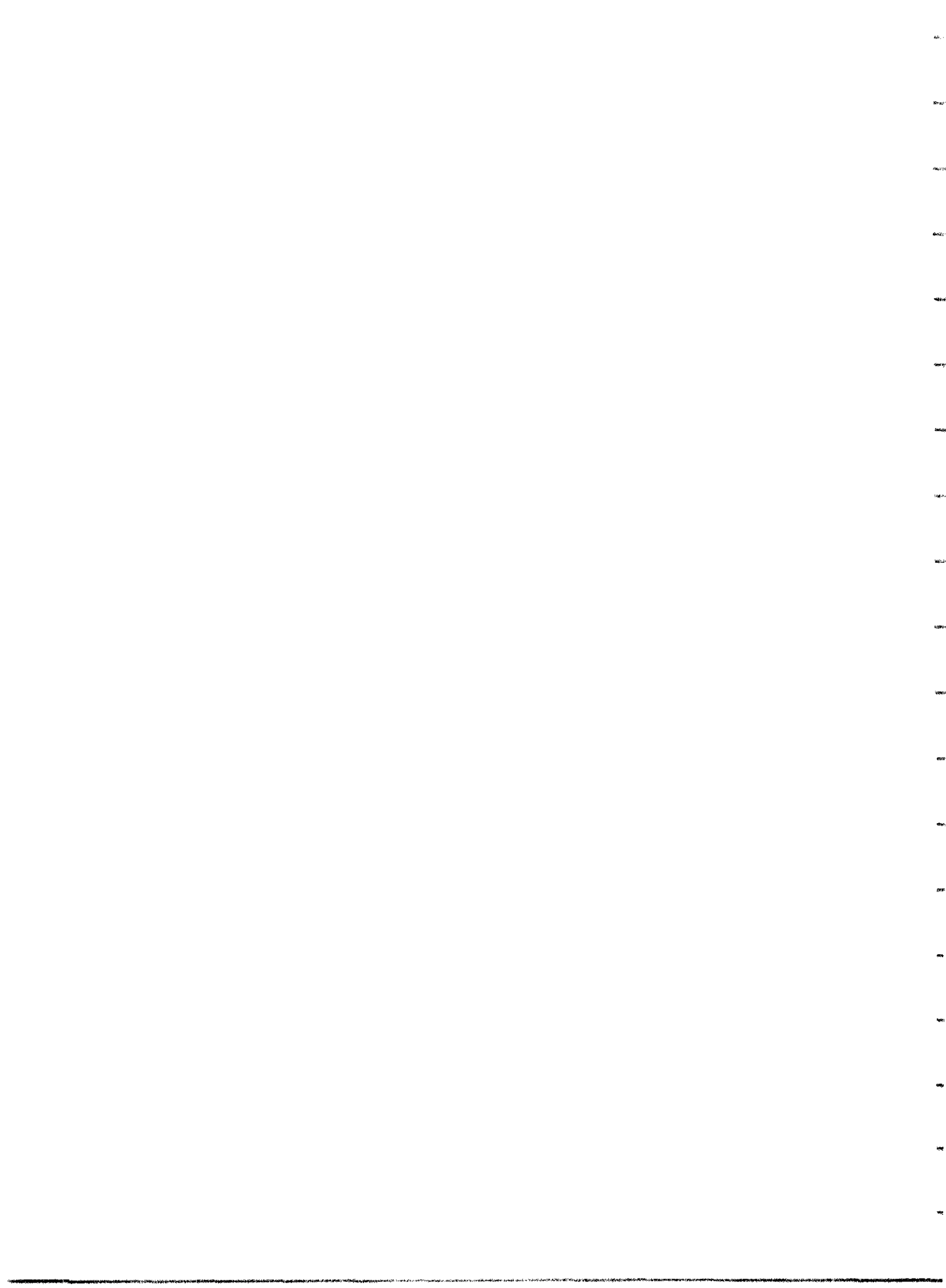
Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure pursuant to §905 of this Chapter, or the requirements for the Subdivision of Land, the Planning Board shall attempt to integrate, as appropriate, Site Plan Review as required by this section with the procedural and submission requirements for such other compliance.

APPENDIX.

1200. Dimensional Requirements

1201. Table of Sign Regulations

1202. Zoning Map



Appendix 1200.

Dimensional Requirements

District	Min Lot Size (sq. ft.)	Min Frontage (feet)	Minimum Yard Setback Dimensions (ft.)				Max Height (feet)	Max Lot Coverage (%)	Site Plan Required
			Front	Side (each)	Rear				
AGRICULTURAL - Dimensional Requirements									
A - Agricultural	3 acres	250	50	15	50	35 ¹	25	No ²	

NOTES:

1. No height limit on farming-related structures
2. Site Plan Review is required if any variances are necessary

RESIDENTIAL - Dimensional Requirements³									
R - Residential	40,000	100	40	15	50	35	40	No	
R - Residential, Along Route 36 & 63	40,000	150	60	15	50	35	40	No	
HR - Hamlet Residential	10,000	80	30 ⁴	15	30	35	40	No ⁵	
HDR - High Density Residential	10,000	60	30 ⁴	15	30	35	40	Yes	

NOTES:

3. These figures are for single-family detached dwellings only
4. 30 feet or the average of existing setback on adjacent properties
5. Site Plan Review is required if any variances are necessary

COMMERCIAL - Dimensional Requirements									
HC - Hamlet Commercial	SPR	SPR	SPR	SPR ⁶	SPR ⁶	35	SPR	Yes	
C - Commercial	40,000	150	50	25/50 ⁶	25/50 ⁶	35	70	Yes	
MU - Mixed Use	40,000	150	50	25/50 ⁶	25/50 ⁶	35	70	Yes	

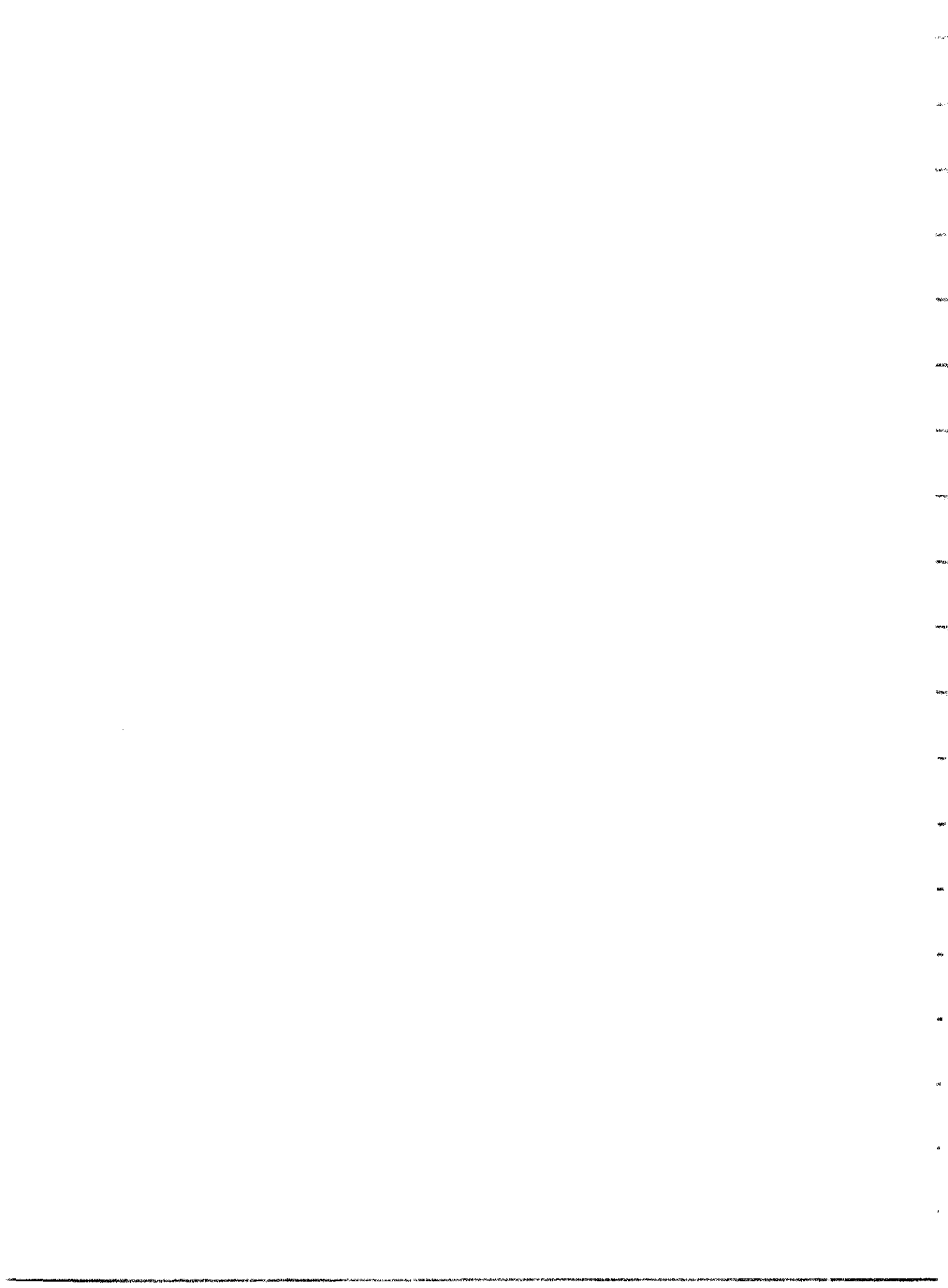
NOTES:

6. 25' setback/buffer from adjacent property & 50' setback/buffer from any residential district boundary

INDUSTRIAL - Dimensional Requirements									
LI - Light Industrial	SPR	100	100	100/200 ⁷	100/200 ⁷	50	70	Yes	
I - Industrial	SPR	150	150	100/200 ⁷	100/200 ⁷	50	70	Yes	

NOTES:

7. 100' setback/buffer requirement from adjacent property & 200' setback/buffer required if industrial use abuts a residential district.



Appendix 1201 - Town of York Sign Standards

ZONING DISTRICT	A Agricultural	R Residential	HR Hamlet Residential	HDR High-Density Residential	HC Hamlet Commercial	C Commercial	MU Mixed Use	LI Light Industrial	I Industrial
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AWNING & CANOPY SIGNS

Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Permitted in Zone	NP	NP	NP	NP	P	P	P	P	P
Maximum # Permitted	n/a	n/a	n/a	n/a	1 per business	1 per business	1 per business	1 per business	1 per business
Total Size Allocation - maximum % vertical canopy surface area	n/a	n/a	n/a	n/a	15%	25%	25%	20%	20%
Internal Lighting	n/a	n/a	n/a	n/a	NP	P	P	P	P
External Lighting	n/a	n/a	n/a	n/a	P	P	P	P	P

WINDOW & DOOR SIGNS

A non-electric sign applied or attached to the interior of a window or door or within 3 feet of the interior which can be seen from the exterior.

Permitted in Zone	NP	NP	NP	NP	P	P	P	NP	NP
Maximum # Permitted	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Total Size Allocation - maximum % window area	n/a	n/a	n/a	n/a	30%	30%	30%	n/a	n/a
Internal Lighting	n/a	n/a	n/a	n/a	NP	P	P	n/a	n/a
External Lighting	n/a	n/a	n/a	n/a	P	P	P	n/a	n/a

TEMPORARY SIGNS

Any sign that is used only for a short, specifically limited time and that is not permanently mounted.

- ◆ Permit requirement guidelines for specific sign types apply as defined above
- ◆ Maximum # Permitted - 1 per lot
- ◆ Maximum Area - Refer to above guidelines for specific sign type
- ◆ Maximum Height - Refer to above guidelines for specific sign type
- ◆ Setback - Refer to above guidelines for specific sign type
- ◆ Internal Lighting - Not permitted
- ◆ External Lighting - Refer to above guidelines for each sign type

LIMITED SIGNS

Any sign that is less than six (6) square feet, not permanently mounted, used only for a short, limited time and removed within a specified timeframe.

- ◆ Permit not required for installation
- ◆ Maximum # Permitted - 1 per lot
- ◆ Maximum Area - 6 square feet
- ◆ Maximum Height - 6 feet
- ◆ Setback - 5 feet
- ◆ Internal Lighting - Not permitted
- ◆ External Lighting - Not permitted

Abbreviations:

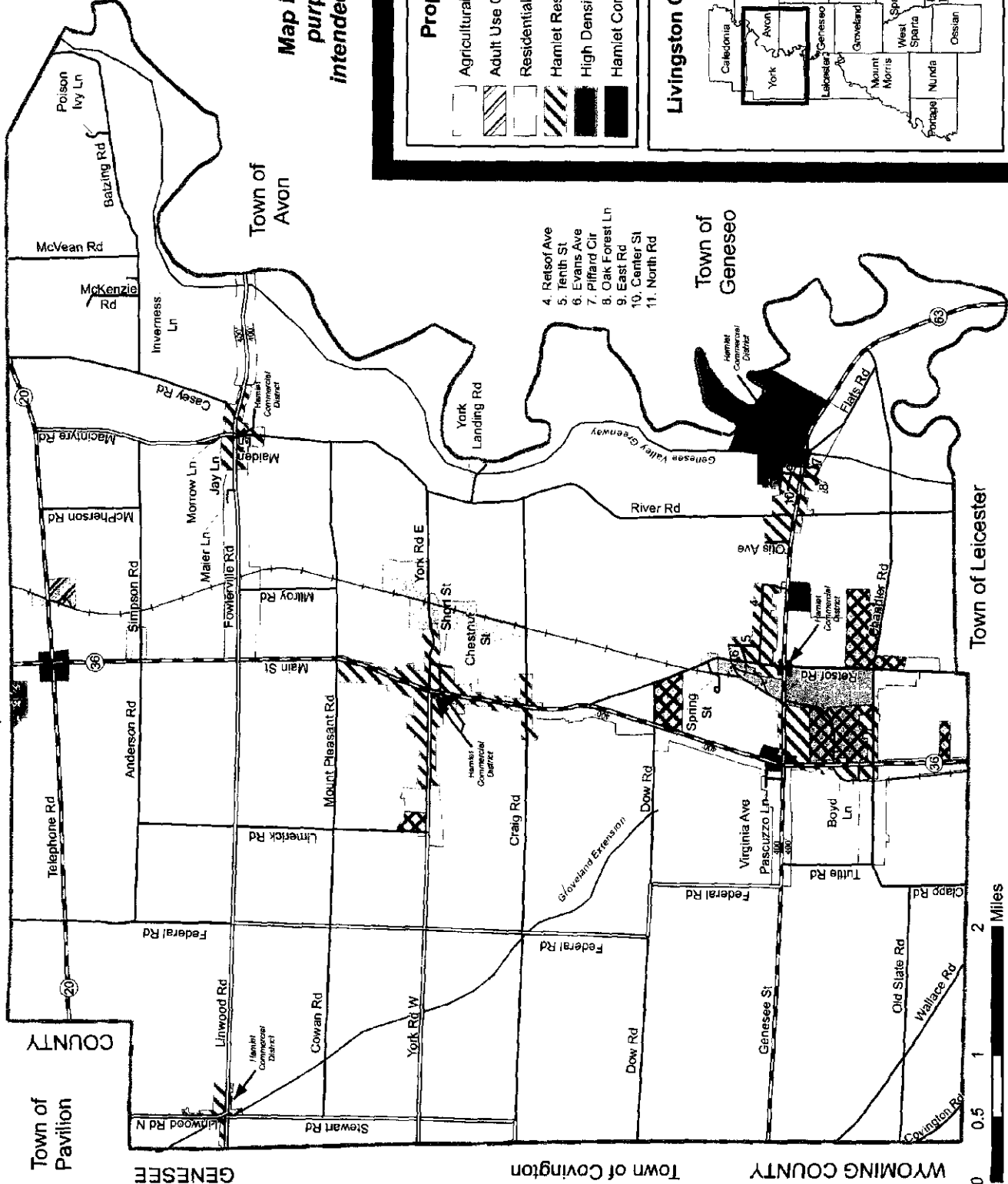
- "NP" = Not Permitted
- "P" = Permitted
- "n/a" = Not Applicable

Town of York

Zoning Map

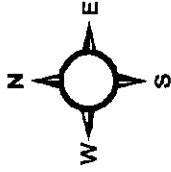
1. Barefoot Ln
2. Foote Dr
3. James Way

Town of Caledonia



4. Retsof Ave
5. Tenth St
6. Evans Ave
7. Piffard Cir
8. Oak Forest Ln
9. East Rd
10. Center St
11. North Rd

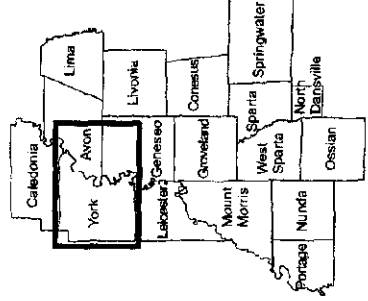
Map is for general planning purposes only and is not intended for site specific review.



Proposed Zoning Districts

	Agricultural		Commercial
	Adult Use Overlay		Mixed Use
	Residential		Industrial
	Hamlet Residential		Light Industrial
	High Density Residential		Planned Development
	Hamlet Commercial		

Livingston County



Legend

	Town Road		County Highway
	State Highway		Railroad
	Trail		Town Boundary

Map prepared by the Livingston County Planning Department: June 2008

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Prepared by:
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