

Local Law #1

of

2009

“Zoning Ordinance of the Town of York”

**Zoning Ordinance**  
of the  
**Town of York**

Livingston County, NY

Adopted: \_\_\_\_\_



# 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 16<sup>th</sup>, 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:

(1) 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  $\frac{2}{3}$  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.)

<b>Table 1</b>	
<b>Frequency Band (cycles per second)</b>	<b>Maximum Permitted Sound-Pressure Level (decibels)</b>
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 conductive 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-1 bedroom	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 homes<sup>1</sup>.**

- 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.

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<sup>1</sup> 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 Facilities<sup>2</sup>**

- 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.

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<sup>2</sup> 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 surface).
- 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 Yards<sup>3</sup>**

- 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.

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<sup>3</sup>Formerly 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 Communities<sup>4</sup>**

- 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

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<sup>4</sup> 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 Facilities<sup>5</sup>**

- 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

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<sup>5</sup> 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 or 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 that 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 limit the 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 <sup>1</sup>	25	No <sup>2</sup>
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**NOTES:**

1. No height limit on farming-related structures
2. Site Plan Review is required if any variances are necessary

#### RESIDENTIAL - Dimensional Requirements<sup>3</sup>

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 <sup>4</sup>	15	30	35	40	No <sup>5</sup>
HDR - High Density Residential	10,000	60	30 <sup>4</sup>	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 <sup>6</sup>	SPR <sup>6</sup>	35	SPR	Yes
C - Commercial	40,000	150	50	25/50 <sup>6</sup>	25/50 <sup>6</sup>	35	70	Yes
MU - Mixed Use	40,000	150	50	25/50 <sup>6</sup>	25/50 <sup>6</sup>	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 <sup>7</sup>	100/200 <sup>7</sup>	50	70	Yes
I - Industrial	SPR	150	150	100/200 <sup>7</sup>	100/200 <sup>7</sup>	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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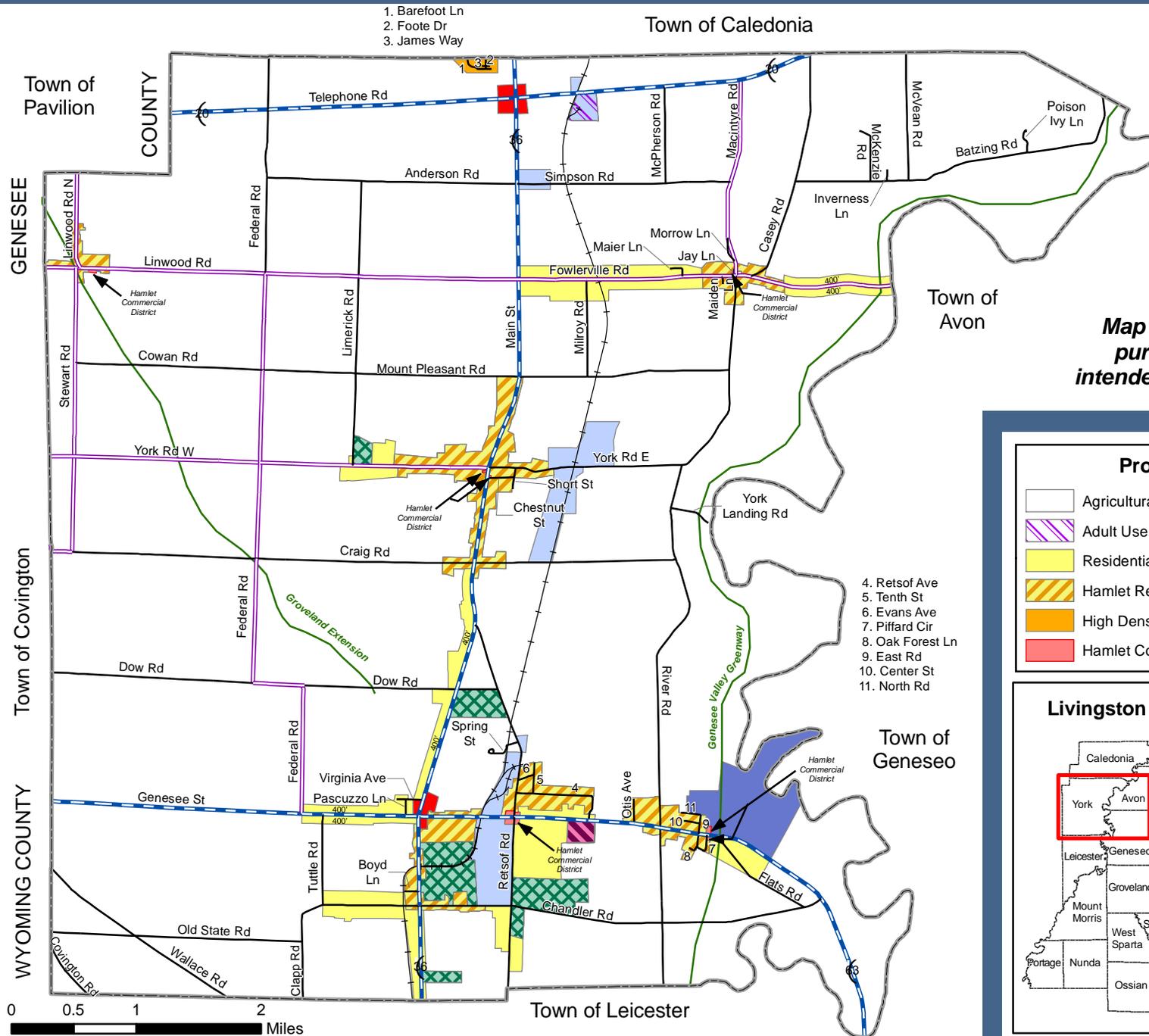
<b>AWNING &amp; CANOPY SIGNS</b>	<i>Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.</i>								
Permitted in Zone	NP	NP	NP	NP	P	P	P	P	P
Maximum # Permitted	n/a	n/a	n/a	n/a	1 per business				
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

<b>WINDOW &amp; DOOR SIGNS</b>	<i>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.</i>								
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

<b>TEMPORARY SIGNS</b>	<i>Any sign that is used only for a short, specifically limited time and that is not permanently mounted.</i>
	◆ 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

<b>LIMITED SIGNS</b>	<i>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.</i>
	◆ Permit not required for installation
	◆ Maximum # Permitted - 2 per lot
	◆ Maximum Area - 6 square feet
	◆ Maximum Height - 4 feet
	◆ Setback - 5 feet
	◆ Internal Lighting - Not permitted
	◆ External Lighting - Not permitted

**Abbreviations:**  
**"NP" = Not Permitted**  
**"P" = Permitted**  
**"n/a" = Not Applicable**



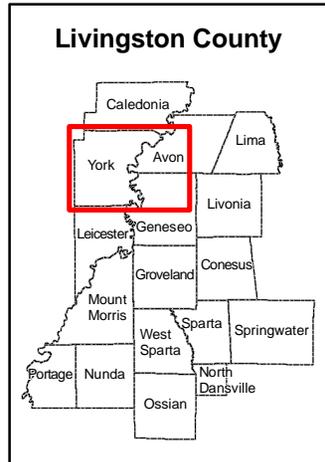
1. Barefoot Ln
2. Foote Dr
3. James Way

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
	Hamlet Commercial		Planned Development



### Legend

-  Town Road
-  County Highway
-  State Highway
-  Railroad
-  Trail
-  Town Boundary

Map prepared by the Livingston County Planning Department: June 2008





Prepared by:  
The Town of York and



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**Land Subdivision Regulations**  
of the  
**Town of York**

Livingston County, NY

Adopted: \_\_\_\_\_



# **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:

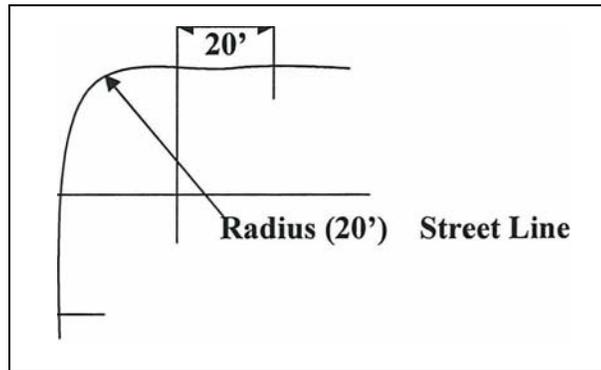
Grades of all streets shall conform in general to the terrain, and shall not be less than one-half (1/2) nor more than 6 percent for major collector streets, or 10 percent for minor streets in residential zones, but in no case more than 3 percent within 50 feet of any intersection.

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):

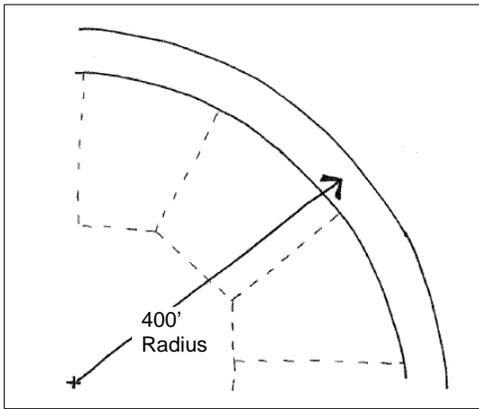
Where dead-end streets are designed to be so permanently, they should, in general, not exceed 500 feet in length, and shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and pavement radius of 50 feet. At the end of temporary dead-end streets a temporary turn-around 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:

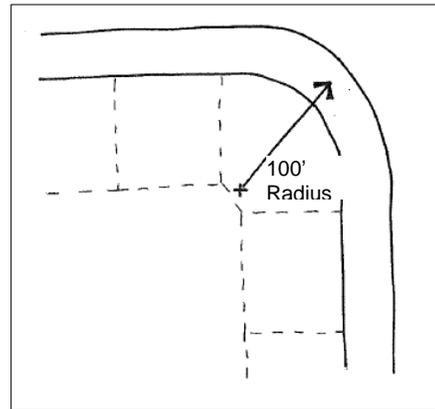
Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.

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.



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