



Memorandum

To: New York State Office of Renewable Energy Siting (ORES)
From: Environmental Design & Research, D.P.C.
Date: March 9, 2022
Reference: Hemlock Ridge Solar Project
Matter No. 21-0748
EDR Project No: 20011

Dear ORES Staff:

Please find the enclosed additional information intended to supplement the Section 94-c Application previously submitted for the Hemlock Ridge Solar Project. This information is being provided to further clarify select issues discussed in the Application (filed on July 20, 2021) and the Response to Notice of Incomplete Application (filed on January 14, 2022).

Project Website Update

The website for the Hemlock Ridge Solar Project has been updated to include a working link to the documents filed in the 94-c project proceedings on ORES' Document Matter Master (DMM) website.

- Project website: <https://www.communityenergyinc.com/hemlockridgesolar>
- Link on project web site under NY State Permitting Process heading:
<https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=21-00748&CaseSearch=Search>

Exhibit 05: Design Drawings

Additional details regarding the Design Drawings submitted as Appendix 5-A are as follows:

- Appendix 5-A, Sheet G-003 (attached) has been revised to include a note on road core testing. Please refer to General Note 9 which states: "Core testing is required to be completed in advance of construction to confirm the suitability and define any necessary improvements to the public roads. This shall be done in accordance with Exhibit 16 of the 94.c Application, Effect on Traffic."
- Appendix 5-A, Sheet C-604 was appended to the Application filed in July but was inadvertently not included with the NOIA response filed in January. It is attached to the

memorandum. It includes various details for the collection line, photovoltaic array, inverter pad, and sectionalizing cabinet. Please note that the project does not propose to use any splice vaults, therefore no splice vault details have been included in this submission.

- Appendix 5-A, Sheet C-611 (attached) has been revised to include Planting Notes, which address contractor qualifications; standards of quality for plant materials, backfill material and mulch; procedures for requesting and reviewing plant substitutions; requirements for field review of plant layout prior to installation; plant warranty period and requirements for care by the contractor during this period, and required repair and/or stabilization of disturbed areas by means of establishing vegetation.

Panel Layout Design Constraints and Further Impact Avoidance

The Applicant has taken an iterative design approach to, by and large, avoid wetlands within the Project Site through project design changes. A more compact project improves economics so it is in the best interest of the developer to maximize utilization of available land and minimize “orphan areas” within the fence-line since those areas are leased for the Project. However, invariably, a number of constraints emerged in project design which left open areas of land without panels that might otherwise appear usable. Environmental constraints, such as larger wetland complex impacts, cultural impacts, habitat or other impacts, and leased landowner preferences were initial constraints on the location of components. On a more “micro” level, additional constraints that must be considered include:

- 1) Technical Feasibility and Fixed String Length – Single axis tracking hardware has emerged as the most cost competitive configurations (as opposed to fixed tilt) for PV panels. Panels are not “plug and play” in small segments. “Trackers” come in fixed string lengths and anticipated module designs for this Project have fixed those lengths at 200 and 300 feet, as shown in the design plans. Consequently, if there is an area that has room for a 290-foot string, it must be truncated to 200-feet, and if there is an area with room for a 190-foot string, that string must be dropped entirely. The result is that while a developer will seek to maximize land utilization, a panel layout will often have a jagged saw tooth edge leaving areas, often in a triangular shape without panels.
- 2) Slope and Topography – Trackers are limited to changes in elevation along the length of the string. An area may otherwise look available for panels, but variation in elevation may be above what is practical to accommodate with tracking hardware.
- 3) Shading – Trees with considerable canopy height can cast shadows on panels limiting their energy capture. Typically, panels would be set back from tree lines at least 2 times canopy height to avoid or minimize shading losses.
- 4) Setbacks – The Applicant had to adhere to various setbacks required by 94-c or local ordinances, or to address specific landowner concerns or preferences. Section 94-c has

several requirements that dictate setbacks to roads, property lines etc. Those may not be evident simply by looking at panel layouts at a micro level, but the broader design must accommodate those setback requirements.

- 5) Inverter Size – Panels in an array are collected as Direct Current (DC) and then aggregated at an inverter and converted to Alternating Current (AC). Inverters come in various sizes, but they are step functions and not a continuous range of sizes. There can be instances where usable panel area in a given area exceeds the capacity of the nearby inverter and it is not practical to increase the size of the converter for a marginal increase in panel count. Similarly, there can be areas that are not large enough to support an inverter on their own. In either case, this can result in residual locations of land without panels.

Exhibit 07: Noise and Vibration

Appendix H (Additional Test Reports and Manufacturer Specs) of the Pre-Construction Noise Impact Assessment (PNIA, Appendix 7-A) is attached to this memorandum.

Exhibit 08: Visual Impacts

An approximate count of proposed plants by type (e.g., Large Evergreen Tree) is provided as an attachment to this memorandum. While Appendix B Attachment 1 provides a description of the proposed visual mitigation strategy, a detailed set of construction documents will be prepared for the proposed plantings, as contract documents for use by the installing landscape contractor. These will build upon the conceptual strategy and will call for species from among those listed in the conceptual design groups (e.g., Large Evergreen Tree) shown in Appendix B Attachment 1, and Exhibit 05 Sheet C-611. Working within the proposed plant lists, species for each location within the Facility Site will be chosen based upon the unique conditions at that location. In addition to more complete specification of plant materials, these documents will include specifications for plant installation methods, including a requirement to plant during the appropriate spring and/or fall planting windows.

As described in Appendix B Attachment 1, plant species listed have been chosen because they are either locally native or regionally appropriate in the case of some evergreen tree species. It is intended that species will be chosen whose requirements generally match the soil type(s) and hydrology of their particular planting site. It is therefore not expected that irrigation will be required beyond the period of establishment, except in cases of extreme drought.

As noted above, additional information has been added to Exhibit 05 Sheet C-611, which includes requirements for maintenance and care of plantings by the installing contractor during the establishment period. Following the contract warranty period, plantings will continue to be inspected for health by a qualified professional able to make recommendations for replacement

if necessary to maintain the integrity of the visual buffer. As plantings are intended to be natural in appearance, it is not anticipated that trimming or pruning of plants will be required. Note that a Vegetation Management Plan will be submitted to ORES as part of pre-construction compliance filings in accordance with 900-10.2 (e)(4) of the Section 94-c regulations.

Exhibit 09: Cultural Resources

A response letter dated February 16, 2022 from the New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP) is attached to this memorandum. This response indicates that the NYSOPRHP has reviewed the Preliminary Cultural Resources Avoidance, Minimization, and Mitigation Plan submitted in January 2022, and indicates "that the involved parties have made a good faith effort to communicate directly with the local community to identify community needs and develop specific preservation/history projects to meet those needs. Therefore, the Technical Services Unit has no concerns with the mitigation plan as proposed."

Exhibit 14: Wetlands

As discussed above in Exhibit 05, there are several design constraints considered in developing the layout of PV panel array designs for solar installations. These design constraints have been extensively evaluated alongside identified environmental and cultural resources constraints to design the Facility layout that maximizes renewable energy production, while avoiding and minimizing impacts to environmental and cultural resources to the maximum extent feasible. A discussion of avoidance of NYSDEC-regulated wetland impacts is included in Exhibit 14(e) of the Application, which was revised in January 2022.

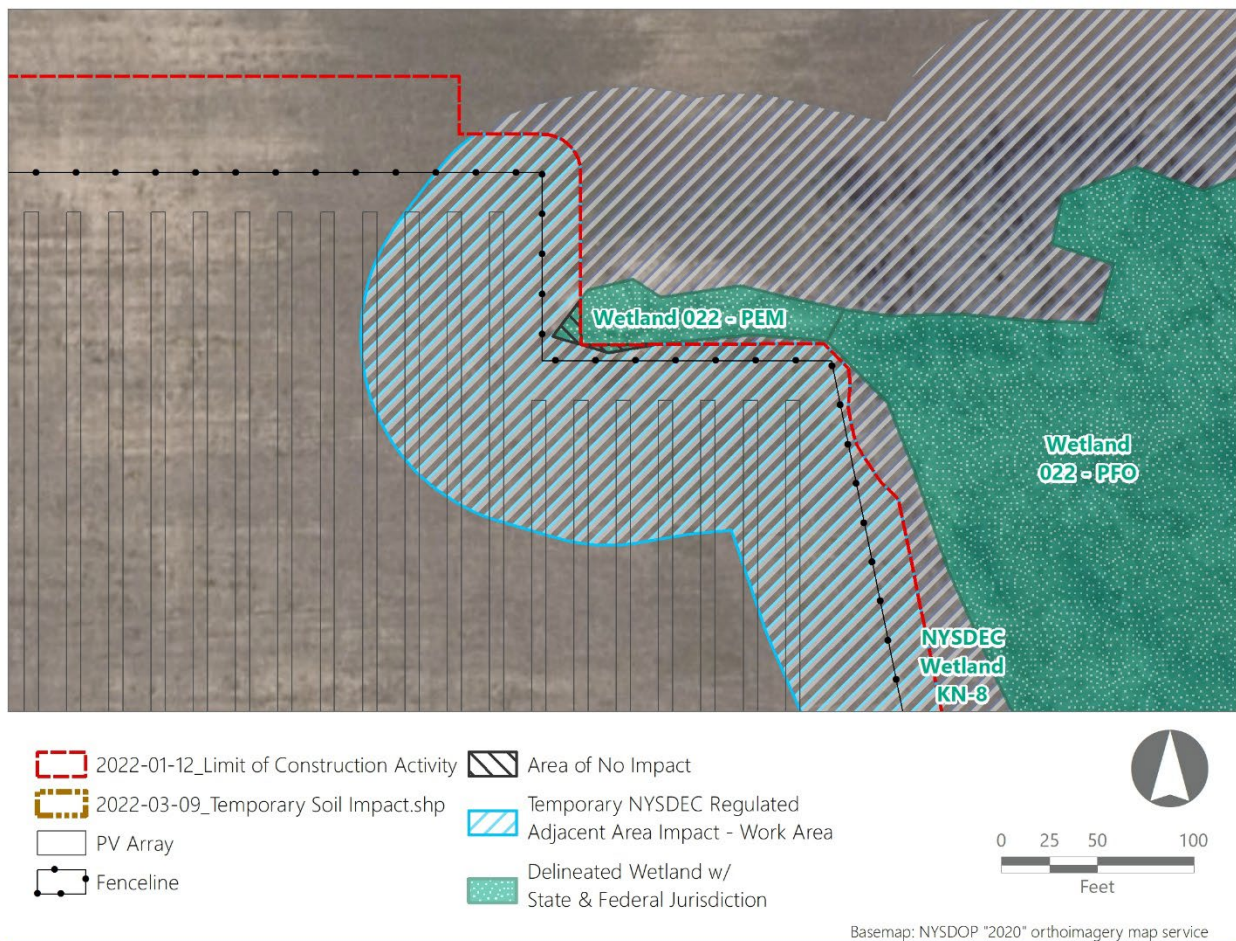
As discussed in Exhibit 14, impacts to state-regulated wetlands have been avoided with the exception of:

- a small (22-foot) security fence crossing of a linear portion of state-regulated Wetland 009 (unmapped) and a small (6-foot) section of security fence crossing a linear portion of state-regulated Wetland 004 (unmapped), and a small (32-foot) section of security fence crossing an outer edge of state-regulated Wetland 031.

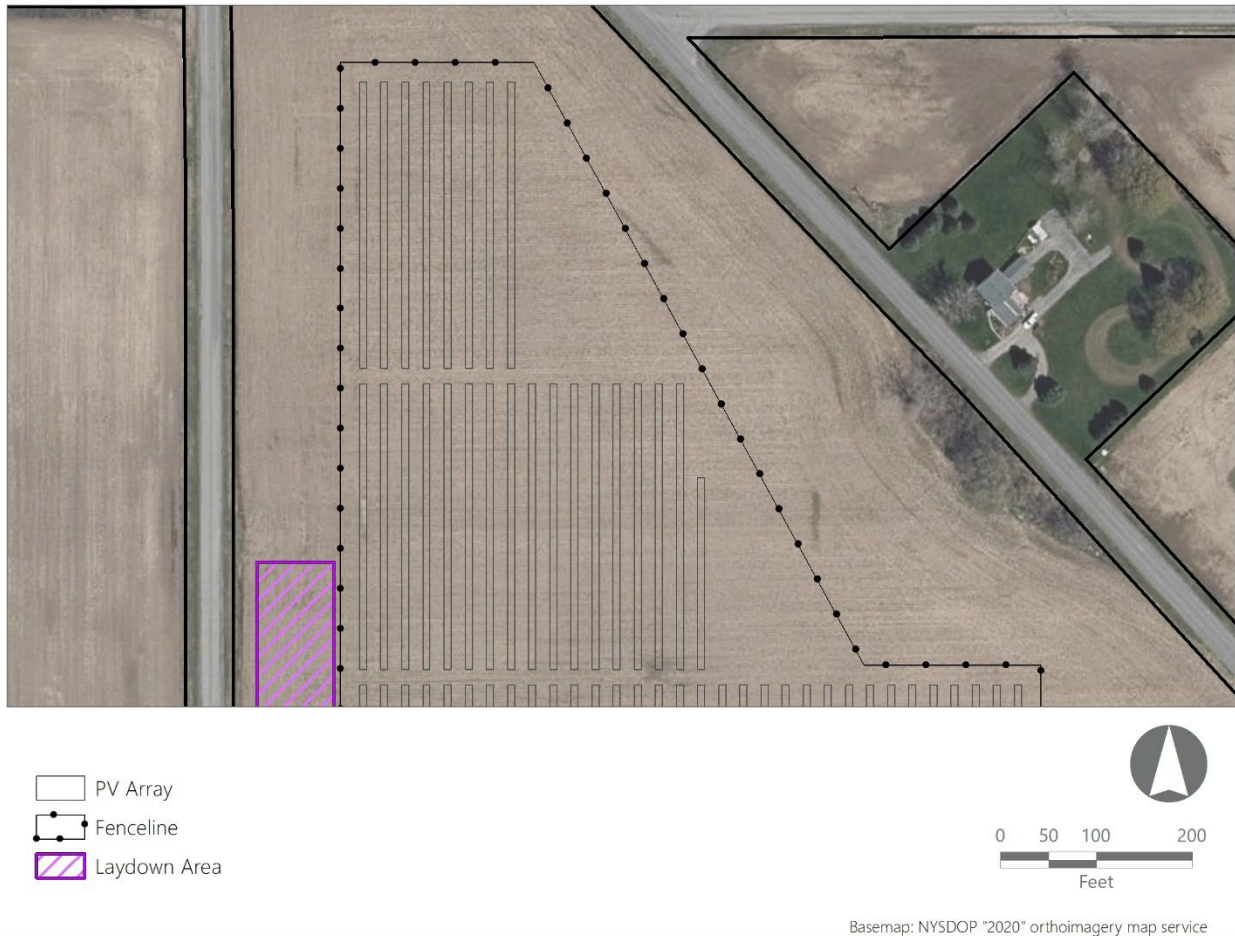
If the design was revised to reach complete avoidance of wetlands and adjacent areas, PV panels would need to be removed from the layout, and the renewable energy generating capacity of the project would be reduced.

Table 14-1 identifies the impacts to state regulated wetlands and adjacent areas within the Facility Site, quantifies each impact, and identifies why avoidance is not practicable, and the planned minimization strategy.

Note that regarding Wetland 022 and the impacts suggested by previously submitted shapefiles, the boundaries of temporary soil disturbance that were provided in the January 2022 shapefiles were based on an outdated iteration of the design. The grading that was originally planned in this area was eliminated from the project design. While the wetland impact drawings/calculations were updated, the temporary soil disturbance shapefile was not updated, which created a discrepancy between the temporary soil disturbance shapefile and the wetland impact shapefile. An updated Limit of Temporary Soil Disturbance shapefile is provided as an attachment to this memorandum in digital format, and a clip of the location is below.



Note that there are several small areas of available acreage (generally up to 1.5-acre pockets, example below) within the boundaries of the project LOD that may appear to be usable orphan land that could contain Project components. However, these areas are not suitable for the placement of PV modules based on the design constraints discussed above under Exhibit 05. The 200-foot minimum string length eliminates many of these areas from consideration. Topography, setbacks, shading, and inverter capacity eliminate the remaining areas.



The project design has also avoided and minimized impacts to state-regulated adjacent areas where practicable; however, some impacts to adjacent areas are necessary so that the project can meet its generating capacity target. The adjacent area to Wetland 009 includes the majority of adjacent area impacts (7.73 acres). The project design was revised to avoid impacts within the boundaries of this wetland with the exception of one unavoidable 22-foot fence crossing. However, the entirety of the adjacent area could not be avoided without a significant impact to the facility design and energy generation capacity.

Exhibit 15: Agricultural Resources

Additional information regarding Table 15-5: Agricultural Lands and Mineral Soil Groups 1-4 Relative to Various Geographic Areas is provided below.

Table 15-5: Agricultural Lands and Mineral Soil Groups 1-4 Relative to Various Geographic Areas

Geographic Area	Total Area (square miles)	Total Area (acres)	NLCD 2016 Agricultural Lands (square miles)	NLCD 2016 Agricultural Lands (acres)	NLCD 2016 Agricultural Lands Percent of Total Area	Mapped MSGs 1-4 (square miles)	Mapped MSGs 1-4 (acres)	Mapped MSGs 1-4 Percent of Total Area
Project Footprint	1.98	1,267	1.96	1,254	99.0	0.6	384	30.3
Limits of Disturbance (LOCA)	2.08	1,331	2.04	1,306	98.1	0.6	384	28.8
Facility Site	3.3	2,112	2.9	1,856	87.9	0.9	576	27.3
5-Mile Study Area	107.3	68,672	69.8	44,672	65.1	46.9	30,016	43.7
Town of Barre	55	35,200	34	21,760	61.8	20.6	13,184	37.5
Town of Shelby	46.5	29,760	25.2	16,128	54.2	16.8	10,752	36.1
Orleans County	392.8	251,392	227.3	145,472	57.9	161.7	103,488	41.2
Genesee County	496.1	317,504	272.8	174,592	55.0	174.5	111,680	35.2
New York State	48,421.30	30,989,632	10,227.30	6,545,472	21.1	6,045.50	3,869,120	12.5

Exhibit 16: Transportation

The output of the FAA Notice Criteria Tool is attached to this memorandum. This tool indicates that the proposed Facility does not exceed the Notice Criteria; therefore, FAA notice is not required.

Exhibit 23: Decommissioning

As shown in the revised Appendix 23-A (Site Restoration and Decommissioning Plan), Appendix 24-B (Decommissioning and Financial Security Schedule), and revised Exhibit 24 (Local Laws) (all under DMM Item 29, filed Jan. 14, 2022), the Facility's decommissioning estimate and resulting financial security do not include a reduction for salvage value. Please note that there is one reference on page 2 of the Exhibit 23 text which refers to the financial assurance being based on the decommissioning estimate "less the expected salvage value and/or resale value of the components" – this statement is a typographical error and should be disregarded. The financial security for the proposed Hemlock Ridge Solar Project will not include an offset or reduction for salvage value.

Exhibit 24: Local Laws

We note that Exhibit 24-A (Local Laws and Ordinances) included a compiled PDF of the Barre Town Code which shows section numbering which differs from the version of the Town Code available on eCodes, the website to which the Town currently directs interested persons in order to view the current version of the Town Code (<https://ecode360.com/13203338>). A Revised Exhibit 24-A replacing the Town Code sections with those published on eCodes is provided herewith. Given that the eCodes website appears to be the most current version of the Code, Exhibit 24 relies on section numbering used on eCodes, rather than the older PDF copy submitted with the original Application.

Lastly, we note that no response has been received from the Town of Shelby regarding clarification or interpretation of the Town's lot coverage restriction. Regardless, Exhibit 24 seeks a waiver of this provision as applied to the Facility.

List of Attachments

- Exhibit 5: Appendix 5-A, Sheet G-003, Sheet C-604, and Sheet C-611
- Exhibit 7: Appendix H (Additional Test Reports and Manufacturer Specs)
- Exhibit 8: Approximate Plant Count
- Exhibit 9: NYSOPRHP Response Letter
- Exhibit 14: Limit of Temporary Soil Disturbance Shapefile (digital format)
- Exhibit 16: Output of the FAA Notice Criteria Tool
- Exhibit 24: Revised Appendix 24-A (Local Laws and Ordinances)

Exhibit 5:

Appendix 5-A, Sheet G-003, Sheet C-604, and Sheet C-611

GENERAL NOTES

- 1. THESE DRAWINGS WERE DEVELOPED TO COMPLY WITH THE 94C REQUIREMENTS PER THE NEW YORK STATE OFFICE OF RENEWABLE ENERGY SITING (ORES). THEY REPRESENT AN APPROXIMATELY 60% LEVEL DESIGN AND ADDITIONAL DESIGN AND DETAIL WILL BE REQUIRED PRIOR TO CONSTRUCTION.
2. ALL WORK AND AMENITIES SHOWN ON THE CONTRACT DOCUMENTS SHALL BE CONSIDERED AS 'NEW' UNLESS INDICATED TO BE 'EXISTING'.
3. THE BALANCE OF PLANT (BOP) CONTRACTOR SHALL BECOME FAMILIAR WITH THE EXISTING SITE CONDITIONS PRIOR TO THE START OF ANY CONSTRUCTION SITE DISTURBANCE.
4. THIS PROJECT WILL OBTAIN COVERAGE UNDER THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC) STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES, PERMIT NO. GP-0-20-001 (GENERAL PERMIT), EFFECTIVE JANUARY 29, 2020 WITH AN EXPIRATION DATE OF JANUARY 28, 2025. THE GENERAL PERMIT AUTHORIZES STORMWATER DISCHARGES TO SURFACE WATERS OF THE STATE FROM CONSTRUCTION RELATED ACTIVITIES. A STORMWATER POLLUTION PREVENTION PLAN (SWPPP) HAS BEEN PREPARED IN ACCORDANCE WITH THIS PERMIT, AND IS PART OF THE CONTRACT AND CONSTRUCTION REQUIREMENTS FOR THIS PROJECT.
5. THE BOP CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS AND MAKE ALL NECESSARY PROVISIONS FOR PROTECTION OF THE PUBLIC, THE WORKMEN AND THE WORK, AND FOR MAINTENANCE AND PROTECTION OF PEDESTRIAN AND VEHICULAR TRAFFIC AS REQUIRED BY THE AGENCIES OF GOVERNMENT HAVING JURISDICTION.
6. SITE ACCESS IS RESTRICTED TO THE LOCATIONS SPECIFICALLY DESIGNATED ON PLAN.
7. THE BOP CONTRACTOR SHALL ADHERE TO ALL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA), STATE AND LOCAL SAFETY REGULATIONS.
8. PROMPTLY REPORT TO THE OWNER'S REPRESENTATIVE ANY DISCREPANCIES FOUND ON THE SITE OR IN THE CONTRACT DOCUMENTS AND REQUEST A RESOLUTION BEFORE PROCEEDING WITH THE WORK IN THE AREA IN QUESTION. PROVIDE FIELD INFORMATION SPECIFIC TO THE DISCREPANCY TO EXPEDITE RESOLUTION.
9. CORE TESTING IS REQUIRED TO BE COMPLETED IN ADVANCE OF CONSTRUCTION TO CONFIRM THE SUITABILITY AND DEFINE ANY NECESSARY IMPROVEMENTS TO THE PUBLIC ROADS. THIS SHALL BE DONE IN ACCORDANCE WITH EXHIBIT 16 OF THE 94C APPLICATION, EFFECT ON TRAFFIC.
10. LOCATE, PROTECT, AND MAINTAIN BENCHMARKS, MONUMENTS, CONTROL POINTS AND PROJECT ENGINEERING REFERENCE POINTS.
11. THE BOP CONTRACTOR SHALL BE RESPONSIBLE FOR DEWATERING AND MAINTENANCE OF SURFACE WATER AND/OR GROUNDWATER ENCOUNTERED DURING THE COURSE OF WORK.
12. COMPLY WITH ALL LOCAL, STATE AND FEDERAL REQUIREMENTS REGARDING MATERIALS, METHODS OF WORK AND DISPOSAL OF EXCESS AND WASTE MATERIALS.
13. BURNING OF MATERIALS OF ANY DESCRIPTION ON THE SITE IS PROHIBITED.
14. PRIOR TO PERFORMING ANY EXCAVATION WITHIN THE CONSTRUCTION AREA, CONFIRM WITH DIG SAFELY NEW YORK AT 1-800-962-7962 THAT ALL EXISTING UNDERGROUND UTILITY LOCATIONS ARE CURRENTLY VERIFIED, OR ARRANGE FOR VERIFICATION.
15. THE BOP CONTRACTOR'S ATTENTION IS DIRECTED TO ALL APPLICABLE LAWS REGARDING LIABILITY INCURRED THROUGH THE DISTURBANCE AND DESTRUCTION OF GEODETIC SURVEY MONUMENTS.
16. ALL EROSION AND SEDIMENT CONTROL DEVICES AND THE CONSTRUCTION FENCE SHALL BE CONSTRUCTED AND OPERATED IN ACCORDANCE WITH THEIR DESIGN, AND MAINTAINED TO ASSURE CONTINUED PERFORMANCE OF THEIR INTENDED FUNCTION THROUGHOUT THE CONSTRUCTION PROCESS.
17. THE START OF ANY ON-SITE CONSTRUCTION INCLUDING STRIPPING TOPSOIL, REMOVING CUT OR PLACING FILL MATERIAL ESTABLISHES THAT THE BOP CONTRACTOR ACCEPTS THE CONTRACT DOCUMENTS AS ACCURATELY REPRESENTING THE EXISTING SITE CONDITIONS.
18. PRIOR TO START OF WORK, THE BOP CONTRACTOR SHALL PROVIDE EXPLORATORY EXCAVATIONS AND COORDINATE ALL PIPING LAYOUTS WITH THE OWNER'S REPRESENTATIVE TO ELIMINATE ALL CONFLICTS WITH EXISTING UTILITIES.
19. THE USE OF EXPLOSIVES OF ANY DESCRIPTION ON THE SITE IS PROHIBITED.
20. PROTECT EXISTING TREES AND OTHER SITE AMENITIES INDICATED TO REMAIN DURING CONSTRUCTION. INSTALL PROTECTIVE FENCING AS INDICATED ON THE DRAWINGS AND/OR AS DEMANDS. EXERCISE ALL REASONABLE CARE WHEN WORKING IN CLOSE PROXIMITY TO EXISTING VEGETATION TO AVOID DAMAGE. AVOID THE USE OF HEAVY EQUIPMENT OR STOCKPILING MATERIALS WITHIN THE DRIP LINE.
21. CONSTRUCTION DEBRIS AND DEMOLISHED MATERIALS SHALL BE REMOVED FROM THE SITE AT REGULAR INTERVALS AS DETERMINED BY THE OWNER'S REPRESENTATIVE AND SHALL NOT BE ALLOWED TO ACCUMULATE. EMPLOY APPROPRIATE MEASURES TO PREVENT LOOSE DEBRIS FROM LEAVING THE CONSTRUCTION AREA.
22. PRIOR TO PERFORMING ANY SITE DEMOLITION, CLEARING OR EARTHWORK ACTIVITY WITHIN THE CONSTRUCTION AREA, ESTABLISH THE LIMITS OF ALL AREAS TO BE DISTURBED. INSTALL ALL REQUIRED TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES AND THE CONSTRUCTION FENCE IN A TIMELY MANNER FOR THE APPROPRIATE PHASE OF CONSTRUCTION TO MINIMIZE THE IMPACT ON THE SURROUNDING ENVIRONMENT, AND PROTECT THE GENERAL PUBLIC AND THE WORK.
23. THE BOP CONTRACTOR SHALL SECURE PORTIONS OF THE SITE THAT ARE UNDER CONSTRUCTION AS NECESSARY TO PROTECT THE PUBLIC AND TO PROTECT THE WORK IN PROGRESS. OPEN EXCAVATIONS SHALL BE PROPERLY PROTECTED AT ALL HOURS.
24. ALL FACILITIES TO BE CONSTRUCTED OR INSTALLED SHALL COMPLY WITH ALL SECTIONS AND LATEST REVISIONS OF THE REQUIREMENTS OF ALL AGENCIES OF GOVERNMENT HAVING JURISDICTION.
25. EXISTING UTILITIES (LOCATIONS, SIZES AND INVERT ELEVATIONS) SHOWN ON THE PLANS HAVE BEEN PLOTTED FROM FIELD SURVEYS AND RECORDED MAPS AND SHALL BE INTERPRETED AS APPROXIMATE ONLY. THE BOP CONTRACTOR SHALL BE RESPONSIBLE FOR FIELD VERIFYING THE EXISTING INFORMATION AT LOCATIONS IN CLOSE PROXIMITY TO UTILITIES UNDER CONSTRUCTION.
26. LONG LEAD AND SCARCE MATERIALS SHALL BE ORDERED IN A TIMELY MANNER TO PREVENT AVOIDABLE CONSTRUCTION DELAYS.
27. THE BOP CONTRACTOR IS RESPONSIBLE FOR ALL DAMAGE CAUSED BY CONSTRUCTION TO EXISTING UTILITIES AND FACILITIES WHICH ARE NOT INCLUDED AS PART OF THE INTENDED WORK. THE BOP CONTRACTOR SHALL REPAIR, RESTORE AND/OR REPLACE ALL DAMAGE TO THE SATISFACTION OF OWNER'S REPRESENTATIVE AT NO ADDITIONAL COST TO THE OWNER.
28. THE BOP CONTRACTOR SHALL RESTORE ALL DISTURBED SURFACES TO ORIGINAL OR BETTER CONDITION INCLUDING 6 INCHES OF TOPSOIL, SEED, FERTILIZER, AND MULCH. OTHER SURFACES SHALL BE RESTORED AS SHOWN ON THE DETAILS.

EROSION & SEDIMENT CONTROL PLAN NOTES

- 1. REFER TO THE CONSTRUCTION SEQUENCE IN THE PRELIMINARY SWPPP.
2. THE BOP CONTRACTOR WILL INSTALL EROSION AND SEDIMENT CONTROL PRACTICES AS SHOWN ON THE SWPPP, AS WARRANTED BY SITE CONDITIONS, AND THROUGHOUT ALL PHASES OF CONSTRUCTION.
3. ALL DISTURBED AREAS SHALL BE STABILIZED PER THE NYS STANDARDS FOR EROSION AND SEDIMENT CONTROL, AS NECESSARY BASED ON SITE CONDITIONS.
4. DISTURBED AREAS SHALL BE AS SMALL AS PRACTICAL, AND SHALL BE TEMPORARILY OR PERMANENTLY STABILIZED WITHIN THE TIME FRAME REQUIRED BY THE SWPPP.
5. EROSION CONTROL MEASURES INCLUDING BUT NOT LIMITED TO A STABILIZED CONSTRUCTION ENTRANCE, STABILIZED CONSTRUCTION STAGING AREA AND SILT FENCE SHALL BE THE FIRST ITEMS CONSTRUCTED WHEN SITE WORK BEGINS, AND MUST BE COMPLETELY FUNCTIONAL BEFORE DOWN SLOPE LAND DISTURBANCE BEGINS.
6. ALL EROSION AND SEDIMENT CONTROL PRACTICES SHALL BE CONSTRUCTED AND OPERATED IN ACCORDANCE WITH THEIR DESIGN. ANY NEED FOR REPAIRS OR MAINTENANCE SHALL BE ADDRESSED IMMEDIATELY TO ASSURE THE CONTINUED PERFORMANCE OF THEIR INTENDED FUNCTION THROUGHOUT THE CONSTRUCTION PROCESS.
7. MAINTENANCE AND REPAIR OF ALL EQUIPMENT AND VEHICLES INVOLVING OIL CHANGES, HYDRAULIC SYSTEM AND FUEL TANK DRAIN DOWN, DEGREASING OPERATIONS AND OTHER ACTIVITIES THAT MAY RESULT IN THE ACCIDENTAL RELEASE OF CONTAMINANTS MUST BE CONDUCTED OFF-SITE. ACCIDENTAL SPILLS MUST BE CLEANED UP IMMEDIATELY AND CONTAMINANTS DISPOSED OF PROPERLY.
8. THE BOP CONTRACTOR SHALL TAKE THE NECESSARY MEASURES, INCLUDING WATER SPRINKLING TO PROVIDE DUST CONTROL DURING CONSTRUCTION.

- 9. THE BOP CONTRACTOR SHALL INSTALL ADDITIONAL EROSION AND SEDIMENT CONTROL PRACTICES, AS SHOWN ON THE DETAIL SHEETS, AS NECESSARY DURING THE COURSE OF CONSTRUCTION AT NO COST TO THE OWNER.
10. THE BOP CONTRACTOR SHALL INSTALL AND MAINTAIN THE STABILIZED CONSTRUCTION ENTRANCE TO PREVENT THE TRANSPORT OF SEDIMENT ONTO PUBLIC ROADS AND TO PREVENT THE TRANSPORT OF THE CONSTRUCTION.
11. CONSTRUCTION ENTRANCES SHALL BE INSTALLED FOR THE ACCESS ROADS AT EACH JUNCTION WITH A PUBLIC ROAD UNLESS OTHERWISE INDICATED ON THE FINAL CONSTRUCTION DRAWINGS.
12. IF SEDIMENT IS TRANSPORTED ONTO ROADS, IT MUST BE REMOVED FROM THE ROAD SURFACE ON A DAILY BASIS AND PRIOR TO RAIN EVENTS. SEDIMENT SHALL BE DISPOSED OF IN A MANNER THAT PREVENTS CONTAMINATION OF STORMWATER AND SURFACE WATER.
13. VEGETATION SHALL BE PROTECTED OUTSIDE OF THE LIMITS OF DISTURBANCE.
14. ALL EXISTING TOPSOIL SHALL BE STOCKPILED TO COMPLETE THE FINISHED GRADING OF ALL EXPOSED AREAS FOR THE ESTABLISHMENT OF VEGETATION.
15. THE BOP CONTRACTOR SHALL ULTIMATELY BE RESPONSIBLE FOR LOCATING SOIL AND EXCESS EXCAVATED EARTH STOCK PILES AT A STABLE LOCATION THAT DO NOT INTERFERE WITH CONSTRUCTION ACTIVITIES, AND STORMWATER RUNOFF, AND ARE NOT IN ENVIRONMENTALLY SENSITIVE AREAS. STOCK PILES SHALL BE STABILIZED PER THE DETAIL.
16. CONSTRUCTION WORK AREAS AND ACCESS ROADS MAY BE IMPROVED AS NECESSARY IN ACCORDANCE WITH THE NYS STANDARDS AND SPECIFICATIONS FOR EROSION AND SEDIMENT CONTROL TO ALLOW CONSTRUCTION ACCESS. ANY IMPROVEMENTS, UNLESS DEEMED PERMANENT ON FINAL CONSTRUCTION DRAWINGS SHALL BE REMOVED AT THE COMPLETION OF CONSTRUCTION AND THE AREA RESTORED TO A VEGETATED CONDITION.
17. THE BOP CONTRACTOR IS RESPONSIBLE FOR THE PLACEMENT, DESIGN, APPROVAL, AND OPERATION OF CONCRETE WASHOUTS. THE CONCRETE WASHOUTS SHALL BE INSTALLED A MINIMUM OF 50 FEET AWAY FROM STORM DRAINAGE, SURFACE WATER, OR OTHER SENSITIVE AREAS. CONCRETE WASTE MATERIAL SHALL NOT BE ALLOWED TO OVERFLOW OR OTHERWISE DISCHARGE FROM CONCRETE WASHOUT.
18. FOR INSTALLED SEDIMENT CONTROL PRACTICES, REMOVE ALL ACCUMULATED SEDIMENT AND DEBRIS WHEN THE ACCUMULATION HAS REACHED A DEPTH OF 25% OF THE HEIGHT AND/OR VOLUME OF THE PRACTICE'S CAPACITY, OR MORE FREQUENTLY AS REQUIRED BY THE DETAILS.
19. THE BOP CONTRACTOR SHALL PROVIDE PORTABLE HANDWASHING AND SANITARY FACILITIES. THESE FACILITIES SHALL BE SERVICED REGULARLY BY AN APPROVED SERVICE PROVIDER.
20. SOLID WASTE SHALL BE STORED IN COVERED DUMPSTERS OR OTHER APPROPRIATE CONTAINERS. WASTE IS TO BE DISPOSED OF REGULARLY AND PROPERLY IN ACCORDANCE WITH LOCAL, STATE, AND/OR FEDERAL REGULATIONS.
21. THE EROSION AND SEDIMENT CONTROLS ARE SHOWN FOR A CONDITION WHEN ALL WORK IS OCCURRING SIMULTANEOUSLY. ACTUAL INSTALLATIONS SHALL BE ADJUSTED BASED ON CURRENT CONSTRUCTION ACTIVITY AND SITE CONDITIONS.
22. DURING ROUGH GRADING, LEAVE SLOPE SURFACES SLIGHTLY ROUGHENED TO A DEPTH OF 1-2 INCHES - DO NOT BACK BLADE SLOPES.

PRELIMINARY CONTRACTOR NOTES:

- 1. THE PROPOSED FACILITY COMPONENTS DEPICTED ON THE FINAL CONSTRUCTION DRAWINGS WILL BE DELINEATED IN THE FIELD BY EITHER LATH MARKERS, SURVEYORS RIBBON, PIN FLAGS, OR SUITABLE EQUIVALENT, BY A NYS LICENSED SURVYOR.
2. THE BOUNDARIES OF ALL STREAMS, WETLANDS, AND WETLAND ADJACENT AREAS AS DEPICTED ON THE FINAL CONSTRUCTION DRAWINGS WILL BE MARKED IN THE FIELD BY EITHER LATH MARKERS, SURVEYORS RIBBON, PIN FLAGS, OR SUITABLE EQUIVALENT PRIOR TO CONSTRUCTION BY THE BOP CONTRACTOR. ALL BOUNDARY MARKINGS IN THE FIELD SHALL REMAIN IN PLACE UNTIL CONSTRUCTION HAS ENDED.
3. THE BOUNDARIES OF ALL AREAS OF TREES TO BE CLEARED AS DEPICTED ON THE FINAL CONSTRUCTION DRAWINGS WILL BE MARKED IN THE FIELD BY EITHER LATH MARKERS, SURVEYORS RIBBON, PIN FLAGS, OR SUITABLE EQUIVALENT PRIOR TO CONSTRUCTION BY THE BOP CONTRACTOR. VEGETATION OUTSIDE OF THIS LIMIT SHALL NOT BE.
4. ANY DISRUPTION TO NYSDEC REGULATED WETLANDS WILL BE MINIMIZED. NYSDEC'S FIELD REPRESENTATIVE WILL NOTIFY THE DEPARTMENT OF PUBLIC SERVICE (DPS) STAFF REPRESENTATIVE AND THE APPLICANT'S REPRESENTATIVE OF ANY ACTIVITIES THAT VIOLATE OR MAY VIOLATE EITHER THE TERMS OF THE CERTIFICATE OR THE ENVIRONMENTAL CONSERVATION LAW. DPS AND NYSDEC STAFFS' FIELD REPRESENTATIVES WILL WORK COOPERATIVELY TO DETERMINE WHETHER STOP WORK AUTHORITY WILL BE EXERCISED, OR WHETHER TO DIRECT THE APPLICANT TO TAKE ACTION TO FURTHER MINIMIZE IMPACTS TO STREAMS AND WETLANDS.
5. RESTRICTED ACTIVITIES PERTAIN TO A BUFFER ZONE OF 100 FEET ON EITHER SIDE OF THE BOUNDARIES OF WATER RELATED RESOURCES (STREAMS, WETLANDS, SPRINGS, WELLS, DRAINAGE, ETC.) AND INCLUDE THE FOLLOWING RESTRICTIONS:
5.1. NO DEPOSITION OF SLASH WITHIN IDENTIFIABLE STREAM CHANNELS OR WOOD CHIPS WITHIN 25 FEET OF WETLANDS;
5.2. NO UNNECESSARY REMOVAL OF WOODY VEGETATION OR DEGRADATION OF STREAM BANKS;
5.3. NO EQUIPMENT WASHING OR REFUELING EXCEPT AS SPECIFIED IN THE FINAL CONSTRUCTION DRAWINGS;
5.4. NO STORAGE MIXING OR HANDLING OF ANY PETROLEUM OR CHEMICAL MATERIALS IN OPEN CONTAINERS.
5.5. ALL ACTIVITIES WITHIN STATE-REGULATED WETLANDS AND WETLAND ADJACENT AREAS SHALL BE IN STRICT ADHERENCE TO ALL RESTRICTIONS AS SET FORTH IN THE ISSUED CERTIFICATE PROVIDED TO THE BOP CONTRACTOR.

PRELIMINARY GENERAL ENVIRONMENTAL RESTRICTIONS:

- 1. ALL EQUIPMENT ACCESS, STORAGE OF EQUIPMENT AND MATERIALS, AND OTHER CONSTRUCTION ACTIVITIES WILL BE CONFINED TO THE ACCESS ROADS, LAYDOWN AREAS, COLLECTION LINE, AND TRANSMISSION LINE ROUTES AS DEPICTED ON THE FINAL CONSTRUCTION DRAWINGS.
2. EQUIPMENT WILL UTILIZE THE INTERSECTION OF ACCESS ROADS AND EXISTING ROADS FOR TURNING. WORK AREAS SUCH AS TURBINE SITES AND LAYDOWN AREAS WILL ALSO PROVIDE AREAS FOR EQUIPMENT TURNING AND PARKING, IN ADDITION TO DESIGNATED TURNING LOCATIONS.
3. FUGITIVE DUST RESULTING FROM CONSTRUCTION ACTIVITIES WILL BE MINIMIZED TO THE MAXIMUM EXTENT PRACTICAL BY IMPLEMENTING APPROPRIATE CONTROL MEASURES. THESE MEASURES INCLUDE THE APPLICATION OF MULCH, WATER, OR STONE ON ACCESS ROADS, EXPOSED SOILS, STOCKPILED SOILS, OR UNPAVED PUBLIC ROADS WHEN DRY AND WINDY CONDITIONS EXIST. A WATERING VEHICLE (OR A VEHICLE CONTAINING AN APPROVED CHEMICAL TREATMENT) WILL BE AVAILABLE ON AN AS-NEEDED BASIS.
4. WITHIN 100 FEET OF STATE REGULATED WETLANDS AND 50 FEET OF OTHER WATER BODIES, REMOVE ONLY THE MINIMUM VEGETATION NECESSARY TO ALLOW CONSTRUCTION AND OPERATION OF THE FACILITY.
5. STREAMS AND WETLANDS WILL BE PROTECTED FROM INDIRECT IMPACTS DURING CONSTRUCTION BY UTILIZING VARIOUS EROSION AND SEDIMENT CONTROL MEASURES IN ACCORDANCE WITH THE APPROVED PRELIMINARY EROSION AND POLLUTION PREVENTION PLAN (SWPPP). SUCH MEASURES WILL INCLUDE, BUT NOT BE LIMITED TO: SILT FENCE PLACED BETWEEN WATER RESOURCE BOUNDARIES AND CONSTRUCTION AREAS. EXPOSED SOIL WILL BE SEEDED AND/OR MULCHED AS SOON AS PRACTICABLE, BUT IN ANY EVENT, NO LATER THAN THE END OF THE WORK DAY IN WHICH SITE DISTURBANCE OCCURS TO ASSURE THAT EROSION AND SEDIMENTATION IS KEPT TO A MINIMUM ALONG STREAM AND WETLAND BOUNDARIES.
6. TEMPORARY EROSION CONTROL DEVICES AND STABILIZATION PRACTICES WILL BE INSTALLED SOON AS PRACTICABLE AND APPROPRIATE, IN ACCORDANCE WITH THE SWPPP. EROSION CONTROL DEVICES WILL BE INSTALLED AFTER CLEARING, BUT PRIOR TO SOIL DISTURBANCE.
7. IN THE EVENT THAT ARCHAEOLOGICAL MATERIALS, HUMAN REMAINS, OR EVIDENCE OF HUMAN BURIALS ARE ENCOUNTERED DURING CONSTRUCTION, ALL WORK IN THE VICINITY OF THE FIND WILL BE IMMEDIATELY HALTED AND THE "UNANTICIPATED DISCOVERY PLAN" WILL BE IMPLEMENTED.
8. THE BOP CONTRACTOR WILL LOCATE AND DISTRIBUTE EXCESS EXCAVATION MATERIAL IN NON-AGRICULTURE UPLAND AREAS (I.E., OUTSIDE OF WETLANDS, STREAMS, AND AGRICULTURAL FIELDS), WHERE PRACTICAL, SUCH MATERIAL WILL BE USED AS ROAD FILL OR BACKFILL AROUND STRUCTURES. EROSION CONTROL

- PRACTICES WILL BE INSTALLED, AND EXPOSED SOILS STABILIZED IN ACCORDANCE WITH THE SWPPP.
9. OUTSIDE OF AREAS FOR PERMANENT FILL, FORESTED WETLANDS SHALL BE CLEARED IN A NON-MECHANIZED MANNER.
10. IN AREAS WHERE NYSDEC JURISDICTIONAL WETLANDS CONTINUE BEYOND THAT WHICH WAS DELINEATED (AS DEPICTED THROUGH USE OF 'WETLAND CONTINUES LINES AND/OR ARROWS'), THE STATE-REGULATED 100-FOOT ADJACENT AREA IS NOT SHOWN.

PRELIMINARY SPECIFIC STREAM CROSSING RESTRICTIONS:

- 1. CONSTRUCTION WORK IN STREAMS WILL CONFORM TO APPROPRIATE TIMING RESTRICTIONS TO PROTECT IMPORTANT FISHERIES RESOURCES. DURING SPAWNING AND PRIMARY MIGRATION PERIODS, STREAMS SUBJECT TO SUCH RESTRICTIONS WILL BE DETERMINED IN THE FIELD BY REPRESENTATIVES OF THE NYSDEC AND THE APPLICANT, PRIOR TO CONSTRUCTION. FOR COLD WATER FISHERIES IN THE PROJECT AREA, CONSTRUCTION WORK IN STREAMS WILL BE PROHIBITED BETWEEN OCTOBER 1 AND MAY 31 TO AVOID TROUT SPAWNING PERIODS. FOR WARM WATER FISHERIES, CONSTRUCTION WORK IN STREAMS WILL BE PROHIBITED BETWEEN MARCH 1 AND JULY 15. HOWEVER, ONCE INSTALLED, SUCH CROSSINGS CAN BE USED BY CONSTRUCTION VEHICLES THROUGHOUT THE DURATION OF PROJECT CONSTRUCTION. ANY EXCEPTIONS TO THESE PROHIBITED PERIODS REQUIRE PRIOR APPROVAL BY DPS STAFF. IN CONSULTATION WITH NYSDEC, A CULVERT WILL BE INSTALLED IN THE STREAM AND WILL BE DESIGNED IN ACCORDANCE WITH NWP GENERAL CONDITION 5-A-11.

PRELIMINARY SPECIFIC WETLAND CROSSING RESTRICTIONS:

- 1. ANY REQUIRED TEMPORARY ACCESS ROUTE WILL BE REMOVED FOLLOWING CONSTRUCTION, AND RESTORED WITH AN APPROPRIATE NATIVE SEED MIX AND STRAW MULCH, WITH RESPECT TO STATE-REGULATED AREAS, ANY TEMPORARY ACCESS ROUTE THROUGH THE ASSOCIATED STATE-REGULATED WETLAND ADJACENT AREA SHALL ALSO BE REMOVED FOLLOWING CONSTRUCTION, AND RESTORED WITH AN APPROPRIATE NATIVE SEED MIX AND STRAW MULCH.
2. IN ALL CASES, THE PRE-DISTURBANCE FLOW REGIME MUST BE MAINTAINED.
3. DURING EXCAVATION IN WETLANDS, THE PLACEMENT OF TEMPORARY SPOIL STOCKPILES WILL BE RESTRICTED TO FULL CONTAINMENT ON CONSTRUCTION MATTING OR OUTSIDE OF WETLANDS. FOLLOWING BACKFILL, ANY EXCESS SPOIL NOT USED AS STRUCTURE BACKFILL WILL BE DISPOSED OF AT AN UPLAND SITE AS APPROVED BY THE ENVIRONMENTAL INSPECTOR (NO BULL-DOZING, BACK-BLADING, OR OTHERWISE SPREADING OF EXCESS SPOIL OVER THE WETLAND SURFACE), WITH RESPECT TO STATE-REGULATED AREAS, ANY TEMPORARY SOIL STOCKPILES IN THE ASSOCIATED STATE-REGULATED WETLAND ADJACENT AREA SHALL ALSO BE COMPLETELY REMOVED FOLLOWING CONSTRUCTION.
4. EROSION CONTROL AND OTHER WETLAND PROTECTION MEASURES WILL BE IMPLEMENTED AS SPECIFIED IN THE SWPPP.
5. BOP CONTRACTOR WILL INSTALL AND MAINTAIN SILT FENCING AND SEDIMENT BARRIERS WHEREVER EXCAVATION OR FILLING ACTIVITIES OCCUR ADJACENT TO OR WITHIN WETLAND AREAS AS INDICATED ON THE EROSION & SEDIMENT CONTROL PLANS AND SWPPP.
6. LIMITS OF VEGETATION CLEARING AND TEMPORARY SOIL DISTURBANCE FOR THE UNDERGROUND COLLECTION VARY BASED ON THE NUMBER OF CIRCUITS. ONE TO THREE CIRCUITS WILL REQUIRE A 25-FOOT WIDE CORRIDOR. FOUR CIRCUITS WILL REQUIRE 35-FOOT CORRIDOR. FIVE CIRCUITS WILL REQUIRE A 45-FOOT CORRIDOR.
7. CLEARING LIMITS IN FORESTED WETLANDS AND STATE-REGULATED ADJACENT AREAS SHALL BE STRICTLY ADHERED TO.
8. WETLAND CONTINUES LINES OR ARROWS ARE NOT INDICATIVE OF WETLAND/STREAM LINE.
9. FORESTED AREA BOUNDARIES WITHIN DEC 100' ADJACENT AREAS WERE DETERMINED THROUGH INTERPRETATION OF AERIAL IMAGERY.

PRELIMINARY AGRICULTURAL LAND-RELATED RESTRICTIONS:

- 1. WORK WITHIN AGRICULTURAL LANDS SHALL BE COMPLETED IN ACCORDANCE WITH THE OCTOBER 18, 2019 SOLAR ENERGY PROJECTS - CONSTRUCTION MITIGATION FOR AGRICULTURAL LANDS, ISSUED BY THE NEW YORK DEPARTMENT OF AGRICULTURE AND MARKETS (NYDAM).

ABBREVIATIONS

Table with 4 columns: Abbreviation, Description, Abbreviation, Description. Includes terms like AL ALUMINUM, EXP EXPANSION, MH MANHOLE, SPEC SPECIFICATIONS/SPECIFIED, etc.

EDR a better environment Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. 217 Montgomery Street, Suite 1000 Syracuse, New York 13202 P. 315.471.0688

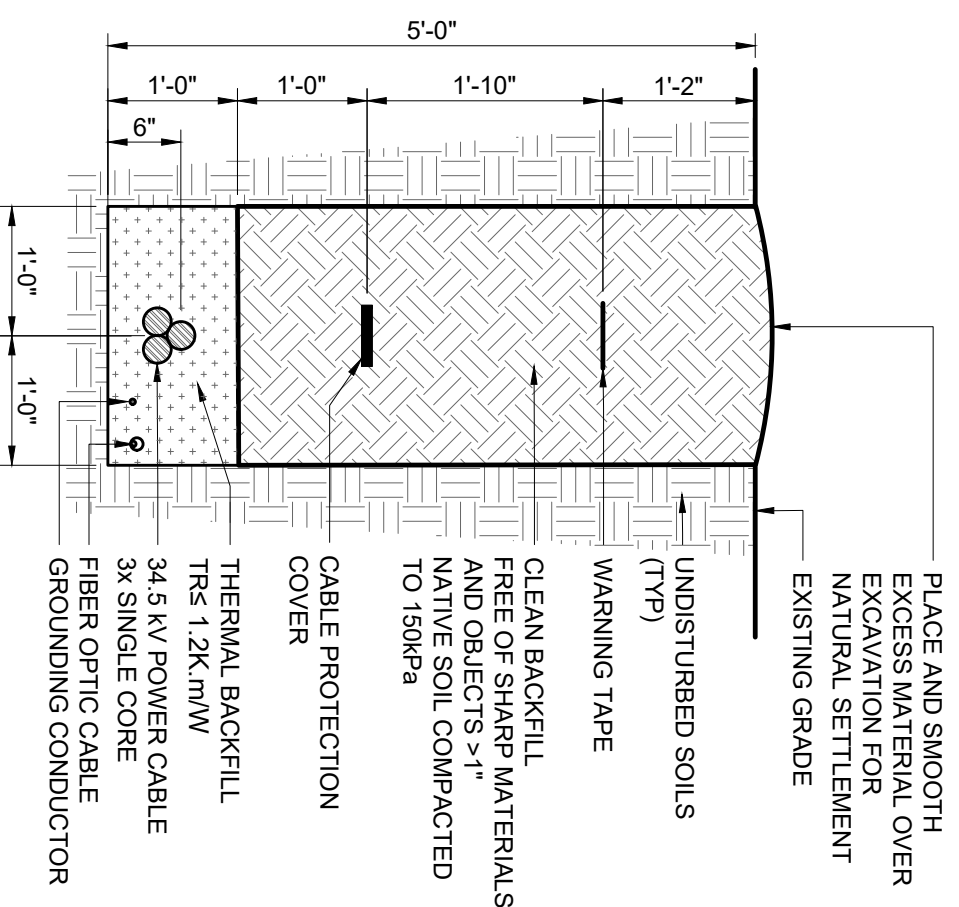


Table with 2 columns: Drawing Revisions, Revisions. Includes revision numbers 1 through 4 with dates and descriptions.

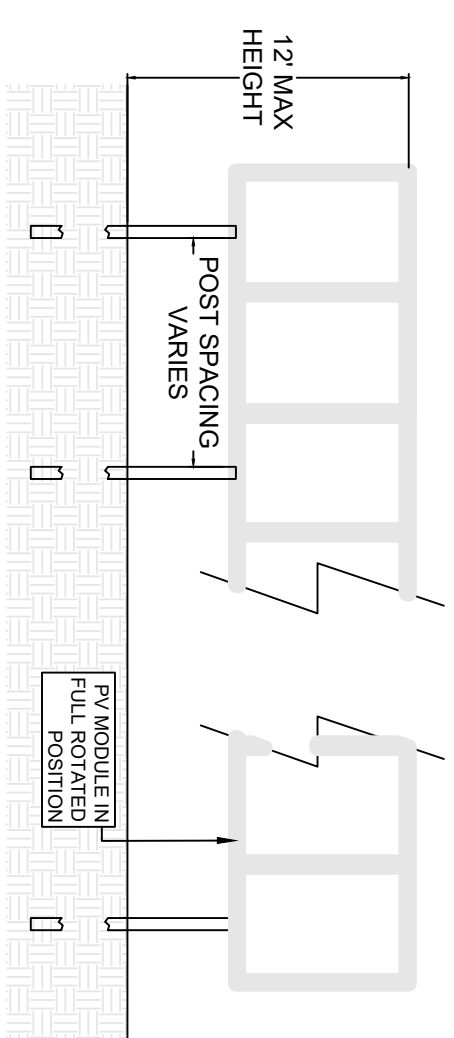
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Table with 2 columns: Project Information, Drawing Information. Includes Project Title (HEMLOCK RIDGE SOLAR), Project Location (TOWN OF SHELBY, TOWN OF BARRE, ORLEANS COUNTY, NY), Client (HEMLOCK RIDGE SOLAR LLC), and Drawing Title (GENERAL NOTES & ABBREVIATIONS).

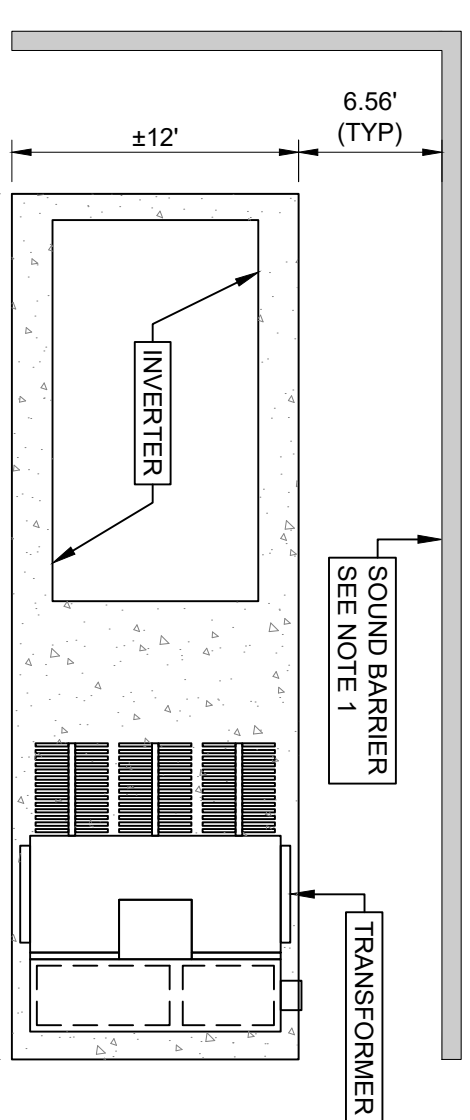
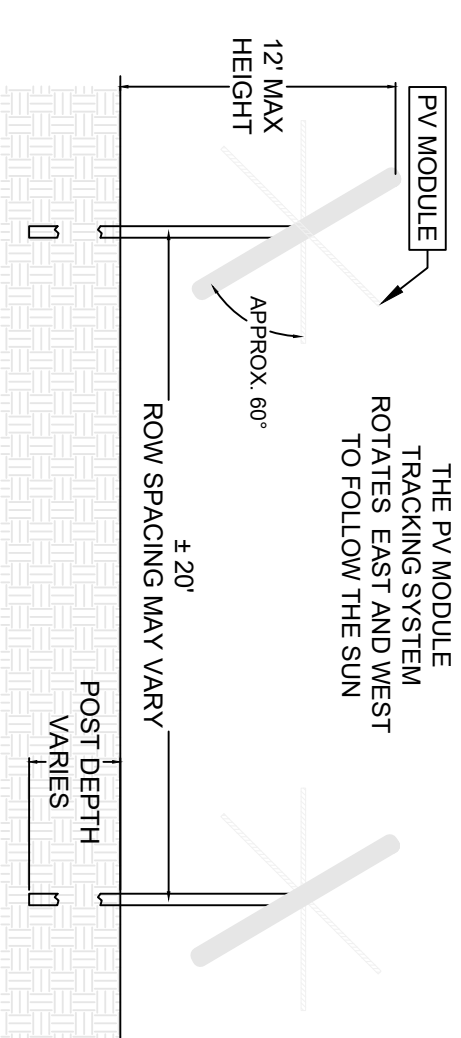
Table with 2 columns: Date (JUNE 29, 2021), Scale (N/A), EDR Job# (20011), Drawn By (JT), File Name (20011-G-003.dwg), Drawing Number (G-003).



PHOTOVOLTAIC ARRAY DETAIL
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Scale: NTS

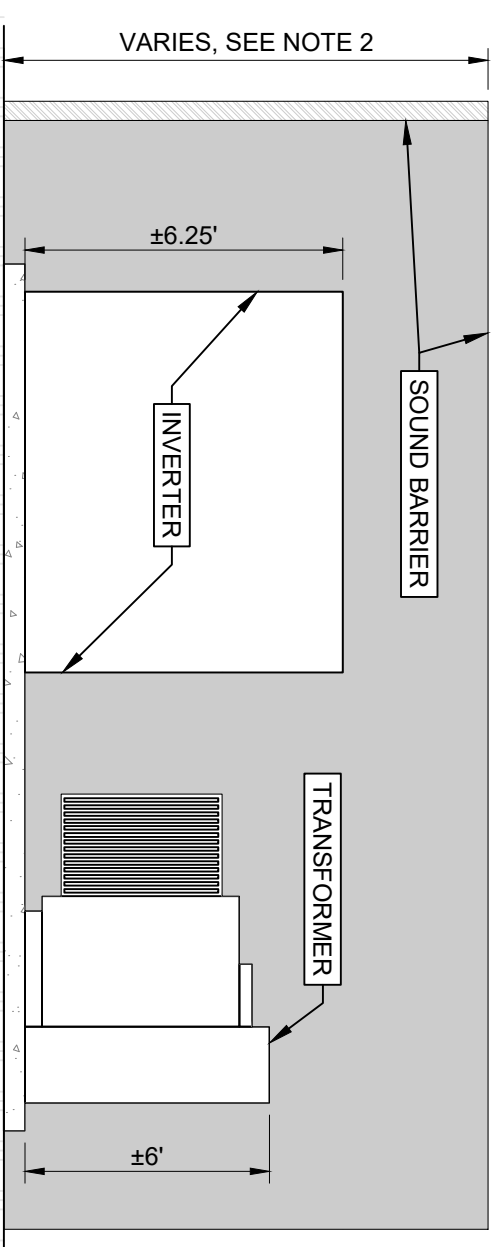


PHOTOVOLTAIC ARRAY DETAIL
ELEVATION VIEW - END
Scale: NTS



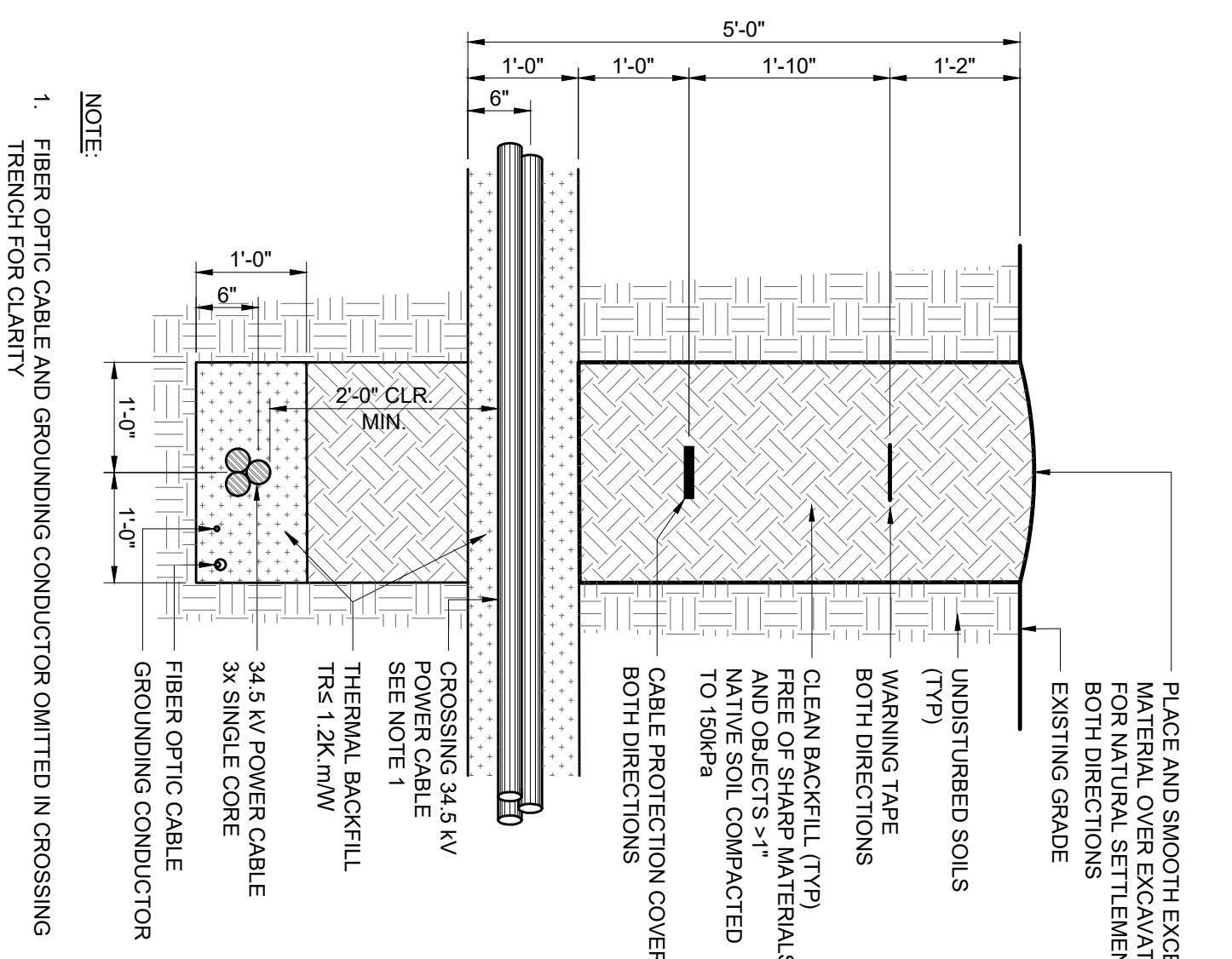
INVERTER PAD DETAIL
PLAN VIEW
Scale: NTS

NOTE
1. SOUND BARRIER LOCATIONS ARE SHOWN ON PLANS.
2. SOUND BARRIER HEIGHTS VARY FROM 8'-4" TO 9'-0"; REFER TO SOUND STUDY FOR ACTUAL DIMENSIONS.



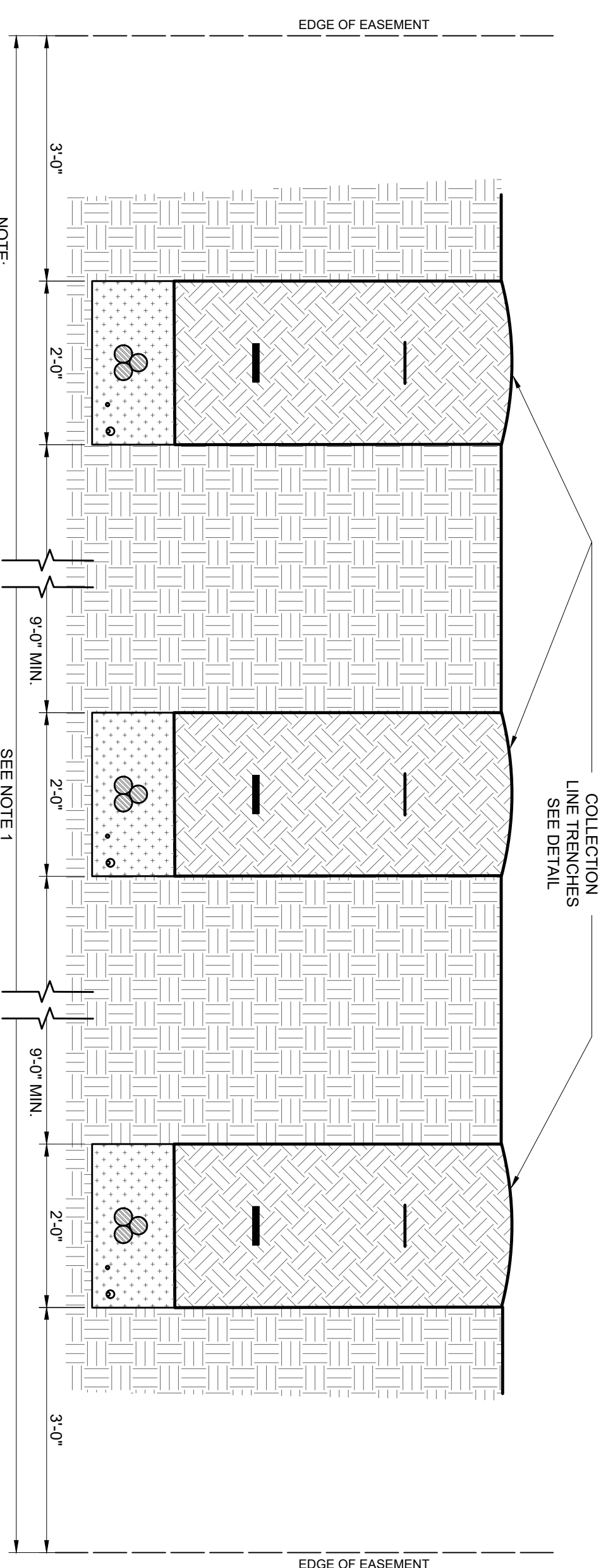
INVERTER PAD DETAIL
ELEVATION VIEW - SIDE
Scale: NTS

COLLECTION LINE TRENCH
SINGLE CIRCUIT
Scale: NTS



NOTE
1. FIBER OPTIC CABLE AND GROUNDING CONDUCTOR OMITTED IN CROSSING TRENCH FOR CLARITY.

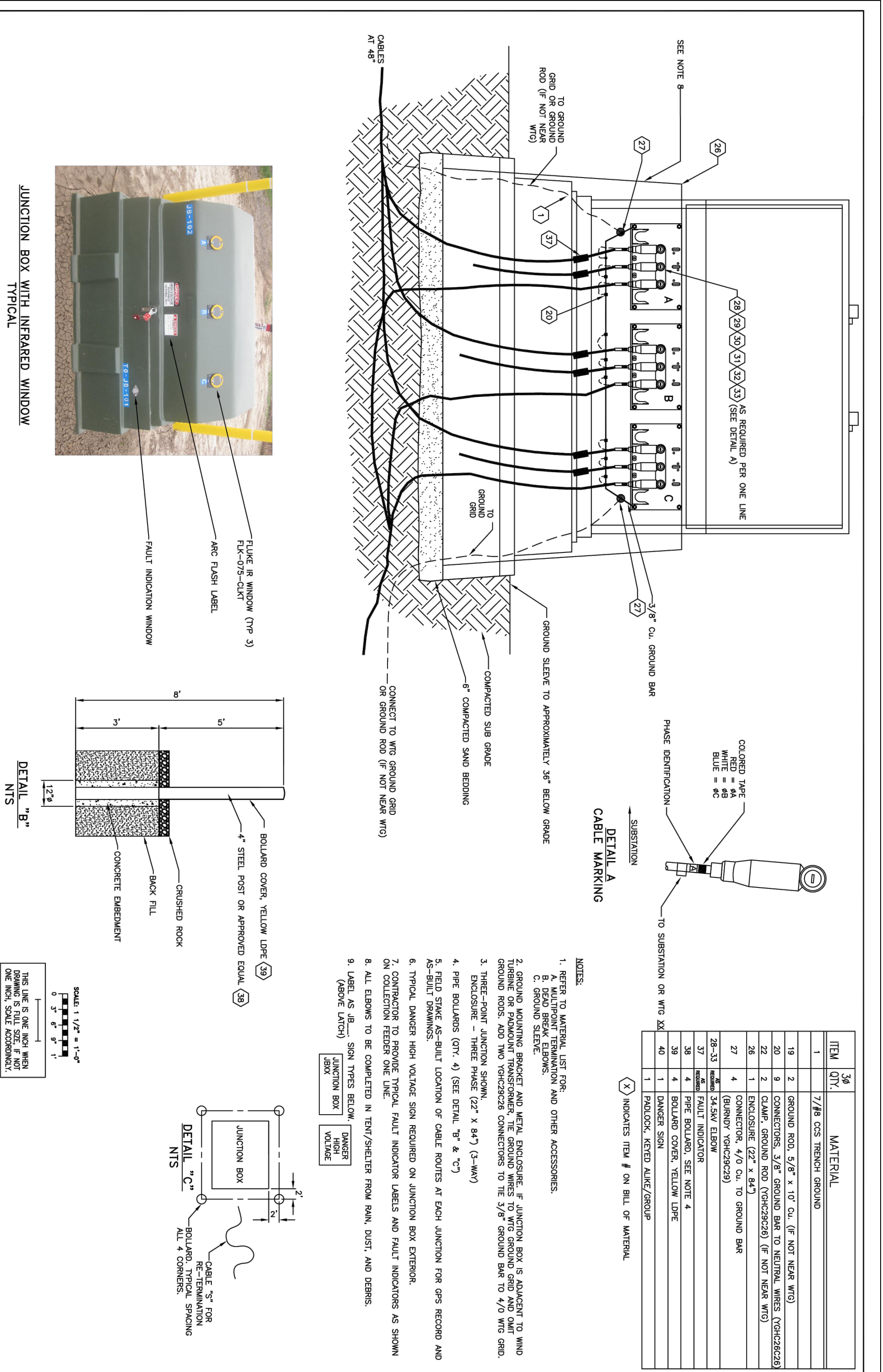
COLLECTION LINE TRENCH
CIRCUIT CROSSING
Scale: NTS



NOTE
1. ROW WIDTH VARIES WITH NUMBER OF CIRCUITS, AS SHOWN. ROW WIDTH = 30 FEET.

COLLECTION LINE TRENCH
MULTIPLE CIRCUITS
Scale: NTS

SECTIONALIZING CABINET DETAIL
Scale: NTS



SECTIONALIZING CABINET DETAIL
Scale: NTS

NOTE
1. ALL ELECTRICAL DETAILS ARE SHOWN FOR COORDINATION PURPOSES ONLY.

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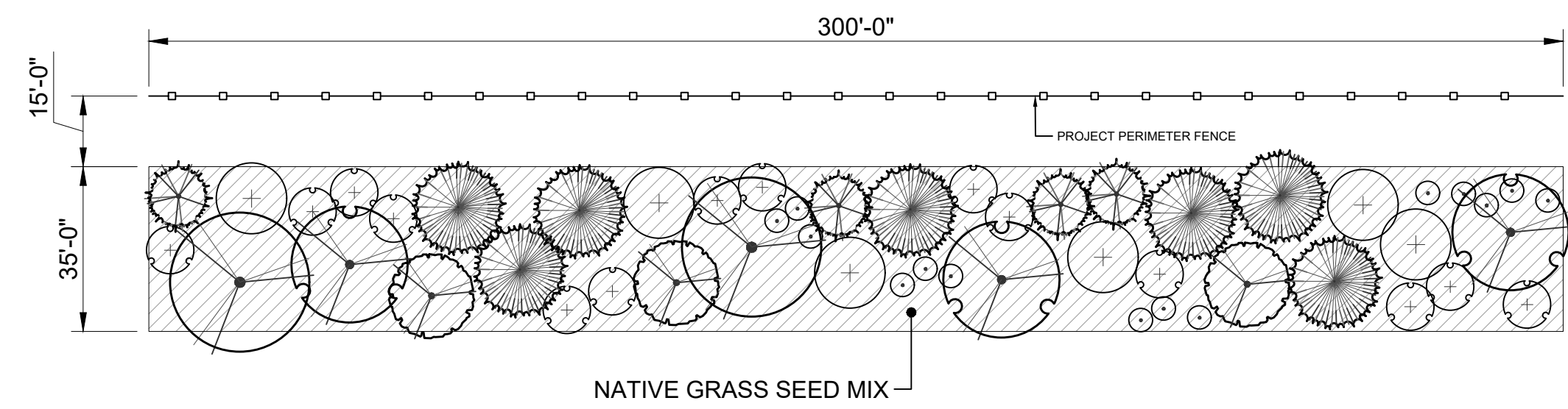
HEMLOCK RIDGE SOLAR
PROJECT LOCATION: TOWN OF SHELBY, TOWN OF BARRE, ORLEANS COUNTY, NY
CLIENT: HEMLOCK RIDGE SOLAR LLC, A SUBSIDIARY OF COMMUNITY ENERGY SOLAR LLC
DRAWING TITLE: DETAILS

NO	DATE	REVISION	BY
01	06/29/2021	APPLICATION FOR CASE NO. 21-00748	
02	12/30/2021	REVISIONS TO THE APPENDIX 5A SUBMISSION	
03	03/09/2022	REVISIONS TO THE APPENDIX 5A SUBMISSION	

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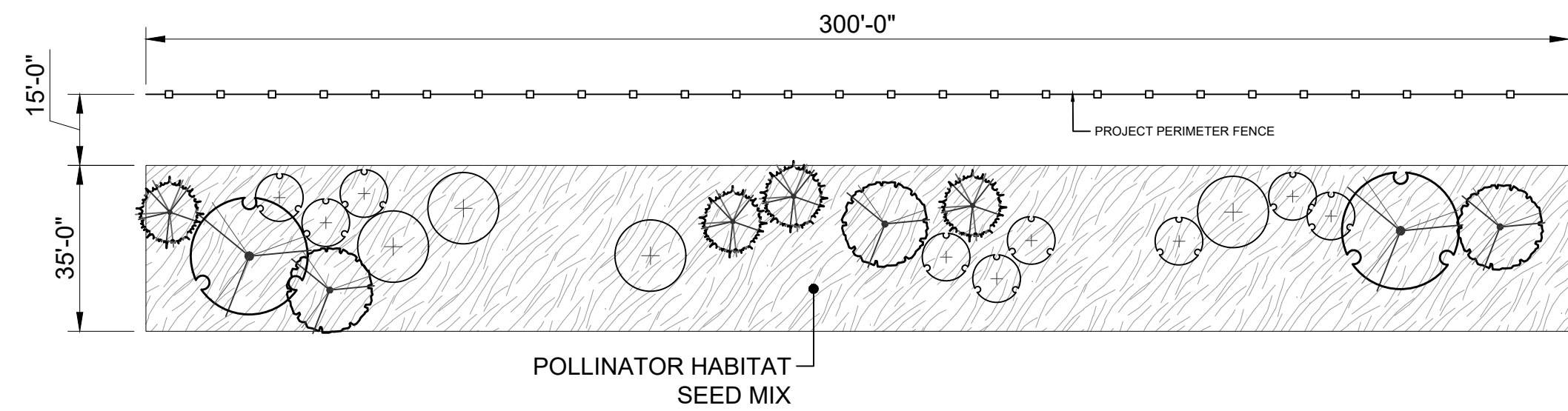
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DRAWING NUMBER: C-604



BUFFER PLANTING MODULE 1

Scale: NTS

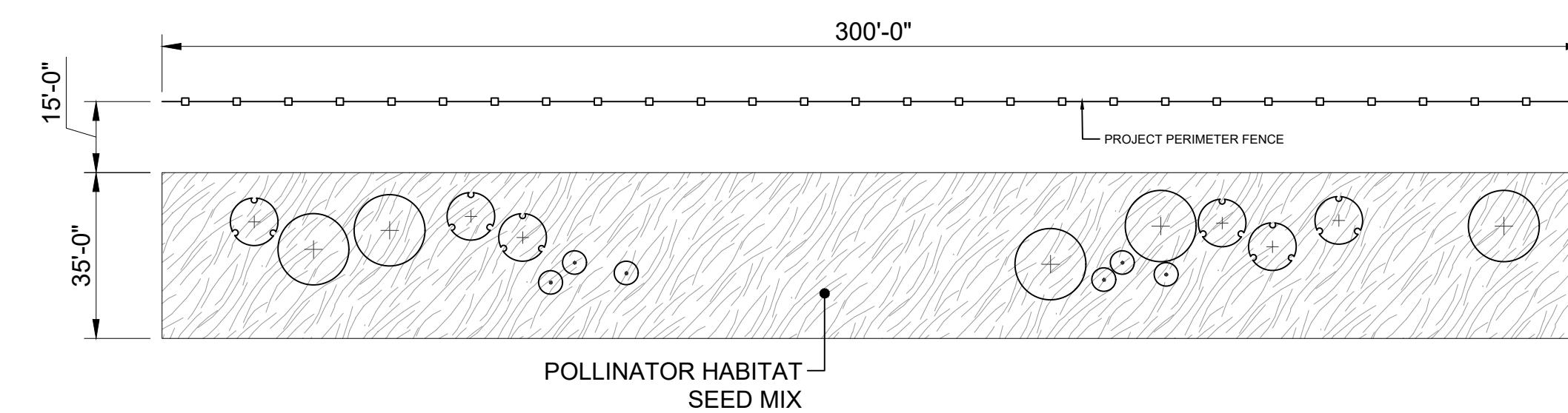
ADJACENT RESIDENCE / RESOURCE



BUFFER PLANTING MODULE 2

Scale: NTS

ROADSIDE SOFTENING



BUFFER PLANTING MODULE 3

Scale: NTS

LOW PROFILE / HABITAT ENHANCEMENT

MODULE 1 PLANT KEY

	LARGE DECIDUOUS TREE Acer saccharum / Sugar Maple Liquidambar styraciflua / Sweet Gum Liriodendron tulipifera / Tulip Poplar Quercus alba / White Oak Quercus rubra / Red Oak Tilia americana / American Linden	2
	MEDIUM DECIDUOUS TREE Acer rubrum / Red Maple Carpinus caroliniana / American Hornbeam Nyssa sylvatica / Tupelo Ostrya virginiana / American Hophornbeam Populus tremuloides / Quaking Aspen Sassafras albidum / Sassafras	3
	SMALL FLOWERING TREE Amelanchier laevis / Allegheny Serviceberry Amelanchier x grandiflora / Apple Serviceberry Cercis canadensis / Eastern Redbud Crataegus crus-galli / Cockspur Hawthorn Hamamelis virginiana / Common Witch Hazel	3
	LARGE EVERGREEN Abies balsamea / Balsam Fir Abies concolor / White Fir Picea glauca / White Spruce Pinus resinosa / Red Pine Pinus strobus / White Pine	7
	SMALL / MEDIUM EVERGREEN Abies balsamea phanerolepis / Canaan Balsam Fir Juniperus virginiana / Eastern Red Cedar Picea glauca 'Densata' / Black Hills Spruce Picea pungens 'Fat Albert' / Fat Albert Colorado Spruce	4
	LARGE MASS-FORMING SHRUB Cornus racemosa / Gray Dogwood Corylus americana / American Hazelnut Rhus typhina / Staghorn Sumac Salix discolor / Pussy Willow	6
	MEDIUM SHRUB Aronia melanocarpa / Black Chokeberry Cornus amomum / Silky Dogwood Cornus sericea / Red Twig Dogwood Lindera benzoin / Spicebush	14
	SMALL SHRUB Amelanchier stolonifera / Running Serviceberry Rhus aromatica / Fragrant Sumac Rosa carolina / Carolina Rose Rosa virginiana / Virginia Rose	14
	NATIVE GRASS SEED MIX	10,500 sf

MODULE 2 PLANT KEY

	MEDIUM DECIDUOUS TREE Acer rubrum / Red Maple Carpinus caroliniana / American Hornbeam Nyssa sylvatica / Tupelo Ostrya virginiana / American Hophornbeam Populus tremuloides / Quaking Aspen Sassafras albidum / Sassafras	2
	SMALL FLOWERING TREE Amelanchier laevis / Allegheny Serviceberry Amelanchier x grandiflora / Apple Serviceberry Cercis canadensis / Eastern Redbud Crataegus crus-galli / Cockspur Hawthorn Hamamelis virginiana / Common Witch Hazel	3
	SMALL / MEDIUM EVERGREEN Abies balsamea phanerolepis / Canaan Balsam Fir Juniperus virginiana / Eastern Red Cedar Picea glauca 'Densata' / Black Hills Spruce Picea pungens 'Fat Albert' / Fat Albert Colorado Spruce	4
	LARGE MASS-FORMING SHRUB Cornus racemosa / Gray Dogwood Corylus americana / American Hazelnut Rhus typhina / Staghorn Sumac Salix discolor / Pussy Willow	4
	MEDIUM SHRUB Aronia melanocarpa / Black Chokeberry Cornus amomum / Silky Dogwood Cornus sericea / Red Twig Dogwood Lindera benzoin / Spicebush	9
	POLLINATOR HABITAT SEED MIX	10,500 sf

MODULE 3 PLANT KEY

	LARGE MASS-FORMING SHRUB Cornus racemosa / Gray Dogwood Corylus americana / American Hazelnut Rhus typhina / Staghorn Sumac Salix discolor / Pussy Willow	5
	MEDIUM SHRUB Aronia melanocarpa / Black Chokeberry Cornus amomum / Silky Dogwood Cornus sericea / Red Twig Dogwood Lindera benzoin / Spicebush	6
	SMALL SHRUB Amelanchier stolonifera / Running Serviceberry Rhus aromatica / Fragrant Sumac Rosa carolina / Carolina Rose Rosa virginiana / Virginia Rose	6
	POLLINATOR HABITAT SEED MIX	10,500 sf

PLANTING NOTES:

- THE CONTRACTOR SHALL PROVIDE A ONE-YEAR WARRANTY ON ALL PLANT MATERIAL. WARRANTY PERIOD BEGINS ON THE DATE OF SUBSTANTIAL COMPLETION OF THE INITIAL PLANTING, AS ACCEPTED BY THE OWNER'S REPRESENTATIVE. PROVIDE A ONE-YEAR REPLACEMENT WARRANTY ON REPLACEMENT PLANT MATERIALS, COMMENCING UPON REPLANTING.
- NOTIFY DIG SAFELY NEW YORK AT 1-800-962-7862 FOR AREA WHERE PROJECT IS LOCATED BEFORE BEGINNING PLANTING OPERATIONS.
- THE PLANTING OPERATION SHALL ONLY BE PERFORMED BY A CERTIFIED LANDSCAPE CONTRACTOR FAMILIAR WITH PLANTING PROCEDURES AND UNDER THE DIRECTION OF A QUALIFIED SUPERVISOR.
- ALL PLANT MATERIALS AND INSTALLATION SHALL COMPLY WITH THE AMERICAN STANDARDS FOR NURSERY STOCK ANSI Z60.1.
- ALL SUBSTITUTIONS MUST BE APPROVED BY THE OWNER'S REPRESENTATIVE PRIOR TO THE SUBMISSION OF ANY BID AND/OR QUOTE BY THE LANDSCAPE CONTRACTOR. FIELD SUBSTITUTIONS MUST BE APPROVED BY THE OWNER'S REPRESENTATIVE AND/OR REVIEWING AGENCY PRIOR TO INSTALLATION.
- THE CONTRACTOR SHALL LAY OUT ALL PLANTING MODULES AND STAKE OUT TREE PLANTING LOCATIONS ON FINISHED GRADE PER THE PLANTING PLANS FOR REVIEW BY THE OWNER'S REPRESENTATIVE PRIOR TO INSTALLATION. CONTRACTOR SHALL PROVIDE ADEQUATE ADVANCED NOTICE FOR TIMELY REVIEW.
- UPON NOTIFICATION, THE OWNER'S REPRESENTATIVE WILL REVIEW THE LAYOUT OF ALL PLANTING MODULES AND INDIVIDUAL PLANT LOCATIONS IN THE FIELD BEFORE INSTALLATION IS PERMITTED. THE OWNER'S REPRESENTATIVE RESERVES THE RIGHT TO SHIFT THE PLANT LOCATIONS AND CONFIGURATION IF IT IS POSSIBLE IN THEIR JUDGMENT TO ACHIEVE A BETTER EFFECT BY THE CHANGES. INSTALL PLANT MATERIALS AT THE CORRECT GRADE. CONFIRM THAT CONSTRUCTION ACTIVITIES AND FINISHED GRADING HAVE BEEN COMPLETED IN THE AREAS WHERE PLANT MATERIALS ARE TO BE INSTALLED.
- ALL PLANT MATERIALS SHALL ADHERE TO THE FOLLOWING STANDARDS:
 - PLANTS SHALL BE FREE FROM DISEASE, PESTS, WOUNDS AND SCARS.
 - PLANTS SHALL BE FREE FROM NOTICEABLE GAPS, HOLES, OR DEFORMITIES.
 - PLANTS SHALL BE FREE FROM BROKEN OR DEAD BRANCHES.
 - PLANTS SHALL HAVE FULL, HEALTHY BRANCHING AND FOLIAGE.
- PLANTS SHALL BE INSTALLED IMMEDIATELY UPON ARRIVAL AT THE SITE.
- BACKFILL SOIL AND TOPSOIL SHALL MEET THE REQUIREMENTS OF NYS DOT ITEM 610.1402 TOPSOIL-ROADSIDE AND BE FREE OF ROOTS, ROCKS LARGER THAN ONE INCH, SUBSOIL, DEBRIS, AND WEEDS.
- PROVIDE MULCH FOR ALL TREE AND SHRUB PLANTINGS PER DETAILS. MULCH: SHREDDED, DOUBLE-GROUND, UN-DYED WOOD BARK MULCH FREE OF DELETERIOUS MATERIAL; COLOR - DARK BROWN. PROVIDE A 3 FT DIAMETER MULCHED PLANTING PIT AROUND ALL INDIVIDUAL TREES AND SHRUB PLANTINGS.
- THE CONTRACTOR IS RESPONSIBLE FOR PROTECTING AND MAINTAINING THE INSTALLED PLANT MATERIALS, INCLUDING WATERING, RE-MULCHING, RE-STAKING, AND DISEASE OR PEST TREATMENTS THROUGHOUT THE WARRANTY PERIOD.
- THE CONTRACTOR SHALL REPAIR ALL DAMAGE TO PROPERTY FROM PLANTING OPERATIONS AT NO ADDITIONAL COST TO THE OWNER.
- THE CONTRACTOR SHALL PROVIDE APPROVED SEED AND MULCH TO ESTABLISH PERMANENT VEGETATION IN ALL AREAS DISTURBED BY CONSTRUCTION ACTIVITIES.

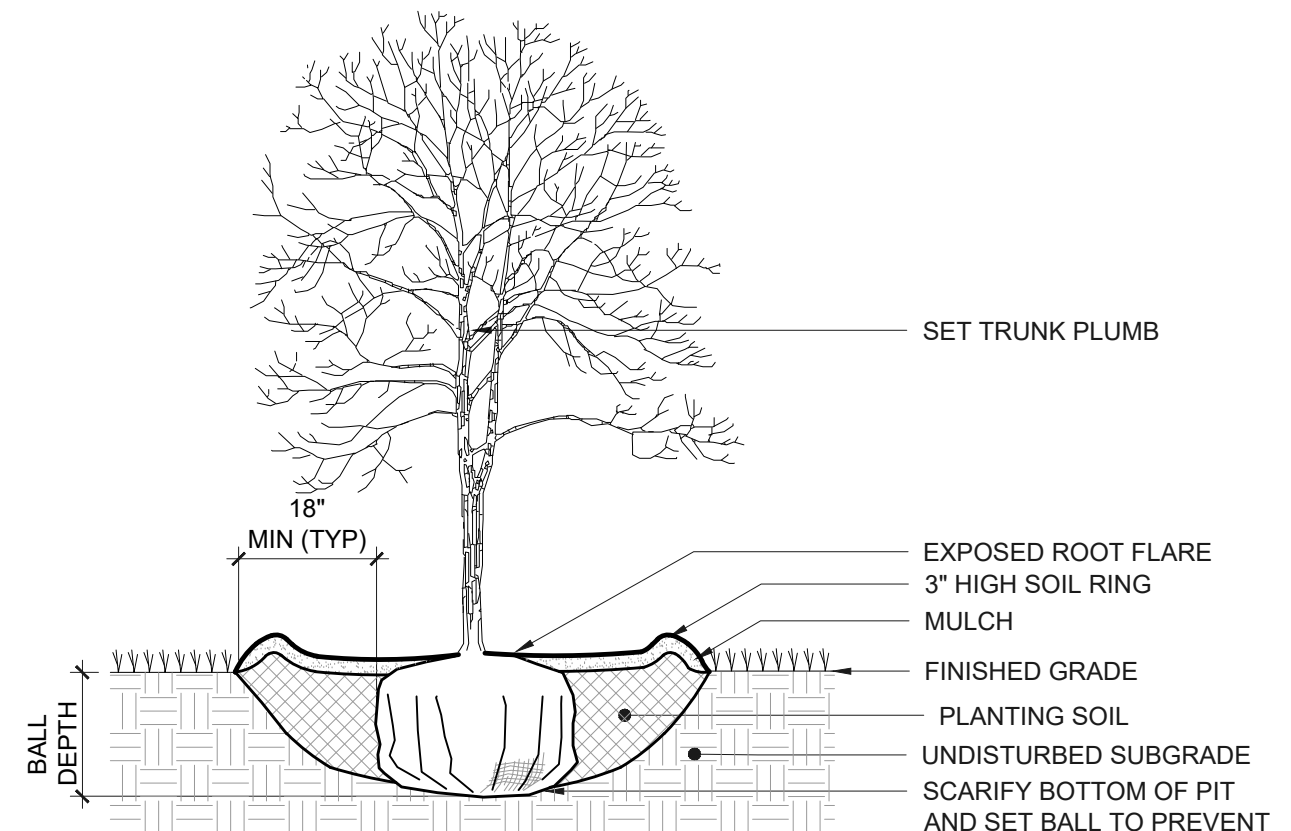


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NO.	DATE	REVISION	BY
1	06/29/2021	APPLICATION FOR CASE NO. 21-00748	
2	12/28/2021	REVISIONS TO THE APPENDIX A SUBMISSION	
3	03/09/2022	REVISIONS TO THE APPENDIX A SUBMISSION	

PROJECT TITLE:	HEMLOCK RIDGE SOLAR
PROJECT LOCATION:	TOWN OF SHELBY, TOWN OF BARRE, ORLEANS COUNTY, NY
CLIENT:	HEMLOCK RIDGE SOLAR LLC, A SUBSIDIARY OF COMMUNITY ENERGY SOLAR LLC
DRAWING TITLE:	VISUAL MITIGATION PLANTING DETAILS

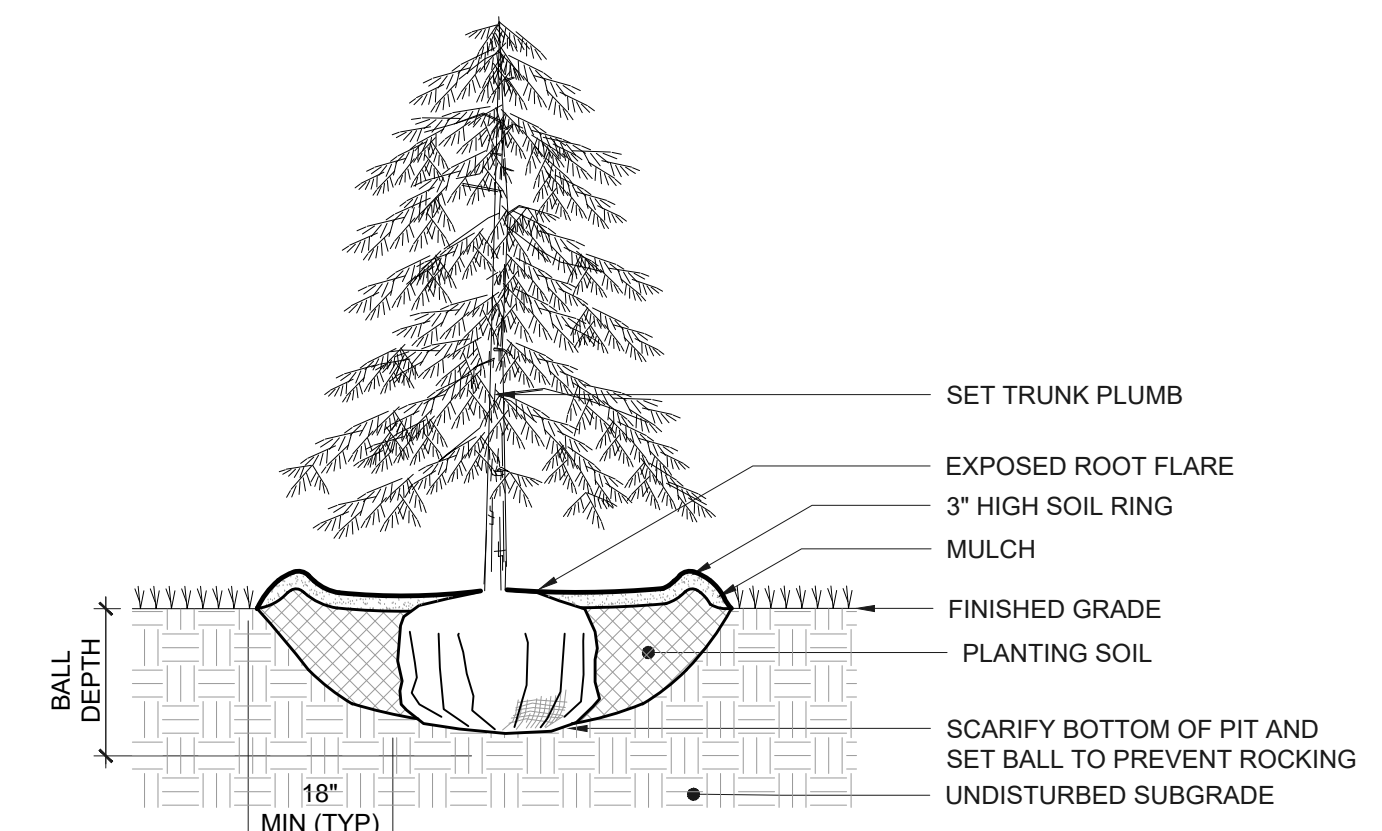
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SCALE:	AS SHOWN
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DRAWN BY:	MCH
FILE NAME:	20011-C-611.dwg
DRAWING NUMBER:	C-611



- NOTES:
- REMOVE BURLAP, ROPE, OR WIRE BASKET FROM TOP 1/3 OF BALL MINIMUM, CUT REMAINING PORTIONS OF ROPE OR WIRE BASKET ONCE PLANT IS IN THE FINAL POSITION IN PIT.
 - TOP OF ROOT BALL SHALL BE SET FLUSH WITH SURROUNDING FINISHED GRADE.

PLANTING - DECIDUOUS TREE

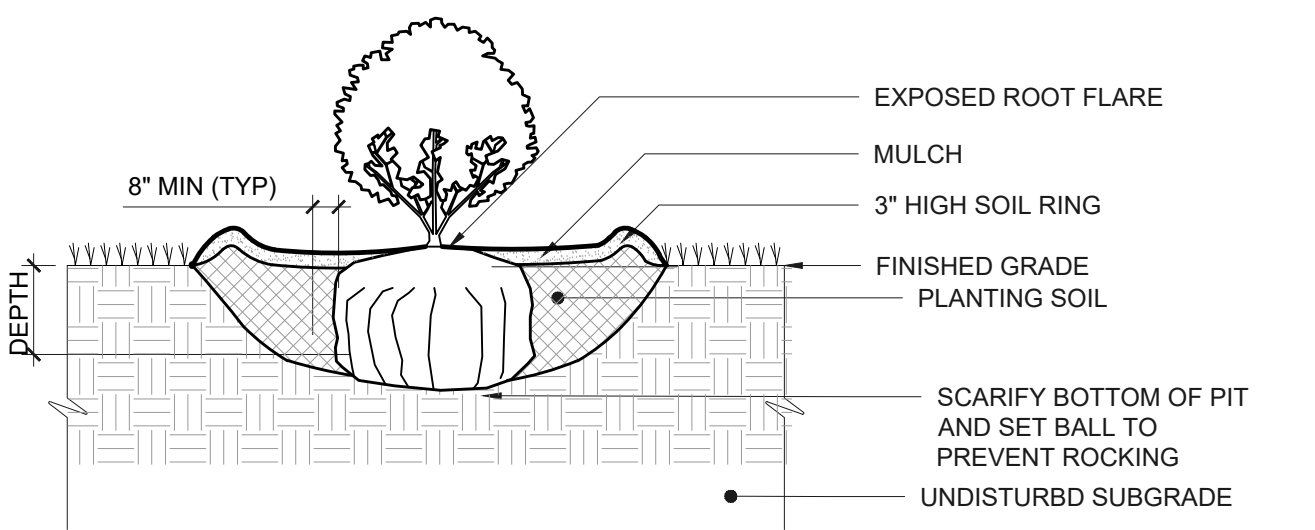
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- NOTES:
- REMOVE BURLAP, ROPE, OR WIRE BASKET FROM TOP 1/3 OF BALL MINIMUM, CUT REMAINING PORTIONS OF ROPE OR WIRE BASKET ONCE PLANT IS IN THE FINAL POSITION IN PIT.
 - TOP OF ROOT BALL SHALL BE SET FLUSH WITH SURROUNDING FINISHED GRADE.

PLANTING - EVERGREEN TREE

Scale: NTS



- NOTES:
- TOP OF ROOT BALL SHALL BE SET FLUSH WITH SURROUNDING FINISHED GRADE.
 - SET PLANT'S PLUMB

PLANTING - SHRUB

Scale: NTS

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Exhibit 7:

Appendix H- Additional Test Reports and Manufacturer Specs



Nextracker, Inc.
6200 Paseo Padre Parkway
Fremont, CA 94555
U.S.A

September 23rd, 2020
Regarding: Tracker Noise Levels
Attention: To Whom it May Concern,

The below information is in regard to NEXTracker's Horizon Single Axis Tracker motor noise levels. Each of the Horizon tracker rows are independently powered by a 24V 1.5A brushless DV motor. The motors are essentially inaudible relative to the background noise.

The motor noise will be ~40db @ 10ft, or ~20db @ 100ft when the motor is running. The motor runs for 5-10 seconds every 1-2 minutes.

	Test condition	Motor speed	Distance	Noise level
Test 1	No load	5.2RPM	0.3 meter	59.7dB
Test 2	No load	5.2RPM	1 meter	55.5dB
Test 3	Full load (120Nm)	4.2RPM	0.3 meter	74.5dB
Test 4	Full load (120Nm)	4.2RPM	1 meter	69.6dB

Kind Regards,

Bill Elwell
Director, Sales
m +1 415.328.7143
belwell@NEXTracker.com

.....
NEXTracker.com

Test Report

This is a report of sound tests conducted on three transformers following the IEEE C57.12.90-2010 standard. These tests are used to assess the spectral distribution of sound from the substation and not the overall sound power level.

Test 1

Voltage: 115/34.5 kV

MVA: 30/40/50 MVA

Instrumentation: Cesva SC310 ANSI/IEC Class I

Testing Conditions: Fans on and Fans off

Sound Power Level

	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1 kHz	2 kHz	4 kHz	8 kHz	LwA
Fans Off	39.0	53.9	70.4	78.1	81.1	83.0	78.1	63.2	59.2	86.7
Fans On	49.1	57.9	75.8	83.8	85.5	87.3	85.5	80.3	71.3	92.2

Test 2

Voltage: 120/13.8 kV

MVA: 30/40/50 MVA

Instrumentation: Cesva SC310 ANSI/IEC Class I

Testing Conditions: Fans on and Fans off

Sound Power Level

	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1 kHz	2 kHz	4 kHz	8 kHz	LwA
Fans Off	41.1	54.8	81.6	92.1	98.7	88.2	77.7	63.8	51.3	100.0
Fans On	53.4	61.7	81.5	89.3	97.7	90.6	85.7	77.4	69.5	99.3

Test 2

Voltage: 230/115 kV

MVA: 180/300 MVA

Instrumentation: Cesva SC310 ANSI/IEC Class I

Testing Conditions: Fans on and Fans off

Sound Power Level

	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1 kHz	2 kHz	4 kHz	8 kHz	LwA
Fans Off	35.6	61.8	89.2	92.4	89.1	84.4	77.4	65.2	56.4	95.7
Fans On	43.8	72.1	87.7	94.1	94.3	93.2	89.4	83.5	72.0	99.6

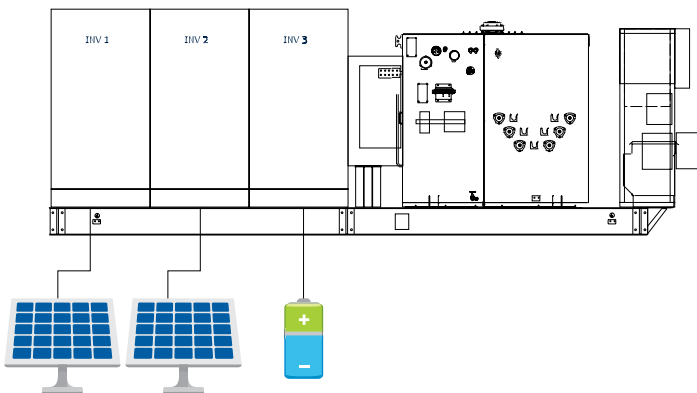
Solar Ware Ninja™

TMEIC
We drive industry

Multiple Configurations for Maximum Flexibility

TMEIC's Solar Ware Ninja is the latest evolution of the highly successful Solar Ware family of inverters, joining over 20GW of TMEIC's globally installed photovoltaic inverters. Continuing the legacy of high efficiency, cutting-edge features, and unmatched reliability, the new Ninja modular inverter system is the culmination of input from utilities, developers, and technicians.

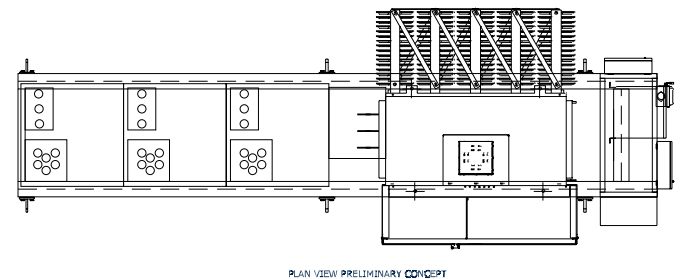
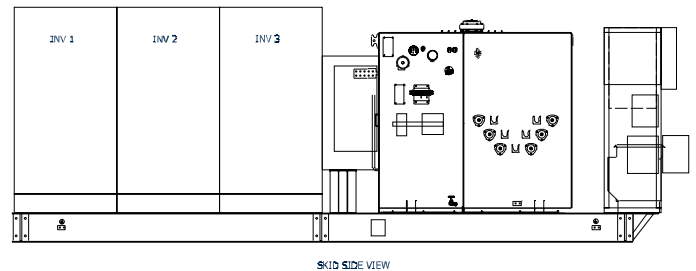
The Ninja is a global product, performing the duties of both generation and energy storage. The modular system introduces multiple layers of flexibility to allow designers an almost unlimited number of options for every project. The advanced controls system is packed with features to meet not only today's smart inverter requirements, but also new requirements as they are introduced. Like the award-winning Samurai series of inverters, the Ninja utilizes the same highly reliable IGBT based power conversion system.



Customizable Block

Up to 6 Ninja units on the same skid. Able to combine PV and ESS inverters in the same lineup. A skid controller will manage output of the Ninja power station.

- Fully Modular design means:
 - Completely independent inverters for increased availability
 - Individual MPPT for greater energy yield
 - Latest generation of Smart Inverter controls platform
 - Multiple output options with various MPPT ranges
- DC Zone monitoring is standard
- UL or IEC certified global design
- PV or Energy Storage (bi-directional)
- Outdoor rated enclosure



TMEIC is Bankable

- Stable, with multi billion \$USD revenue
- Diversified, with decades of power electronics experience in a variety of heavy industries, including metals, oil & gas, mining, and container cranes industries
- Manufacturing in the US and several other locations

TMEIC is Reliable

- Over 20GW of PV and ESS inverters globally
- Own exclusive use of Mitsubishi Electric's 3 level NPS technology
- Industry leading fleet availability

TMEIC is Support

- Award winning service
- 24/7 US based hot line
- Over 30 years PV inverter manufacturing and R&D experience
- Comprehensive customer training programs
- Authorized Service Provider program available

		PV-PCS				ESS-PCS		
Type		PVU-L0800GR	PVU-L0840GR	PVU-L0880GR	PVU-L0920GR	BSU-L0640GR	BSU-L0800GR	BSU-L0840GR
Output side (AC)	Rated Power@25°C	800kW	840kW	880kW	920kW	640kW	800kW	840kW
	Rated Power@50°C	730kW	765kW	800kW	840kW	570kW	730kW	765kW
	Rated Voltage	600V +10%, -12%	630V +10%, -12%	660V +10%, -12%	690V +10%, -12%	480VAC	600VAC	630VAC
	Rated Frequency	50Hz / 60Hz (+0.5Hz, -0.7Hz)						
	Rated Power Factor	>0.99						
	Reactive Capability	±421 kVAR	±442 kVAR	±464 kVAR	±485 kVAR	-512to+640kVAR	-640to+800kVAR	-672to+840kVAR
	Rated Current	702 Arms @50 °C						
	Maxium Current	770 Arms @25 °C						
	Maximum Efficiency	98.9% *Tentative						
CEC Efficiency	98.5% *Tentative							
Input side (DC)	Maximum Voltage	1500 Vdc						
	MPPT Operation Range	875-1300VDC	915-1300VDC	960-1300VDC	1005-1300VDC	710-1300VDC	875-1300VDC	915-1300VDC
Environ. Conditions	Ingress Protection Ratings	IP54 / NEMA3R						
	Installation	Outdoor						
	Ambient Temperature Range	-25° to 50°C						
	Maximum Altitude	>2000 m power derating (Max. 4000m)						
Protective Functions	Input (DC) Side	DC Protection: Fuses Ground Fault, DC Reverse Current, Over Voltage, Over Current						
	Grid (AC) Side	AC Protection: MCCB and Fuse, Anti-islanding, Over/Under Voltage, Over/Under Frequency, Over Current						
	Grid Assistance	Reactive/Active Power Control, Power Factor Control, Fault Ride Through (optional)						
Harmonic Distortion of AC Current	≤ 3% THD (at rated power)				≤ 5% THD (at rated power)			
Communication	Modbus/TCP							
Fault Analysis	Fault Event Log, Waveform Acquisition via memory card							
Compliance	UL1741, UL1745A / IEEE1547 / NEC2017 / IEC62109-1,2 / IEC61000-6-2,4 / IEC61727, IEC62116 / IEC61400, BDEW / IEC61683 / IEC60068							
Cooling Method	Forced Air Cooling							
Number of Inputs	Standard 6 inputs for PV (maximum 8 per inverter)				1 per Inverter			
Standard Control Power Supply	Control Power Supply from Inverter output and Capacitor backup circuit (3 sec. compensation)							
Weight	<1000kgs *Tentative							
Dimensions (H x W x D)	1100 X 1100 X 1900 mm (L x W x H)							
Floor Space	1875.5 sq. in. (1.21 m ²)							
Color	Cabinet: Sand White #Dic583							

Note: Standard configuration not limited configuration. Contact TMEIC for detailed information.

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Sound Level Report – Ninja Installed on TMEIC Skid

Inverter Model: PVU-0840GR
Skid Configuration: Ninja-5 4200MW

Project: AZ1
Location: Salome, AZ
Skids tested: Skids 3, 4, 5, 6

Dates of tests: 23 April 2020
Tested By: Louis Pacent, Brian Poteat

Report By: Bryan Hardman
Last revision: 1 May 2020

Overview:

The Sound Level of several Ninja-5 4200MW skids-installed, Model PVU-0840GR Inverters is to be measured and evaluated to specification requirements.

Conclusion:

The measured Sound Level **meets the specification requirements.**



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Test Method

Procedure

Sound Level Meter was positioned 1 meter from the Equipment being evaluated and 1 meter above the bottom of the Inverters.

- Nighttime (Inverters not operating):
 - Background (ambient) measurements were made at night so that no inverters were operating.

- During normal operation:
 - Measurements were made a various locations on each skid.
 - Side At an angle to the front of the skid
 - Front In front of each Inverter
 - Rear Facing the rear of each Inverter.

All measurement data was recorded for later evaluation.

*Data collected with an Extech Sound Level Meter, Model SDL600.
Calibrator is Extech Model ND9.



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Results – Data Summary

Measurements/Data

Skid 1	Skid 2	Skid 3	Skid 4
Average	Average	Average	Average
79.2 dBA	80.5 dBA	78.1 dBA	78.12 dBA

Sound Meter



Extech Sound Level Meter, Model SDL600



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Sound Level Report – Ninja

Effectiveness of Hoods

Inverter Model: PVU-0840GR
Inverters Tested: PVU-0840GR; 4 per skid, 5 skids
Project: Sound Level Report

Location: In-Situ

Dates of tests: August 25, and September 1, 2020
Report By: Bryan Hardman
Last revision: 11 September 2020

Tested By: Bryan Hardman

Overview:

The effectiveness of the sound reducing hoods for the Ninja Inverter was to be verified by In Situ testing.

The Sound Level of the Model PVU-0840GR inverters, configured in 4 units per skid was to be measured first with factory louvers installed, then measured again with retro-fitted factory Sound reducing hoods installed.

Testing was conducted according to the methods detailed in ISO 3744 – 2010, only modified to accommodate In-Situ testing at 1 meter.

Results:

The installation of the vent hoods reduced the sound level as detailed in this Report.



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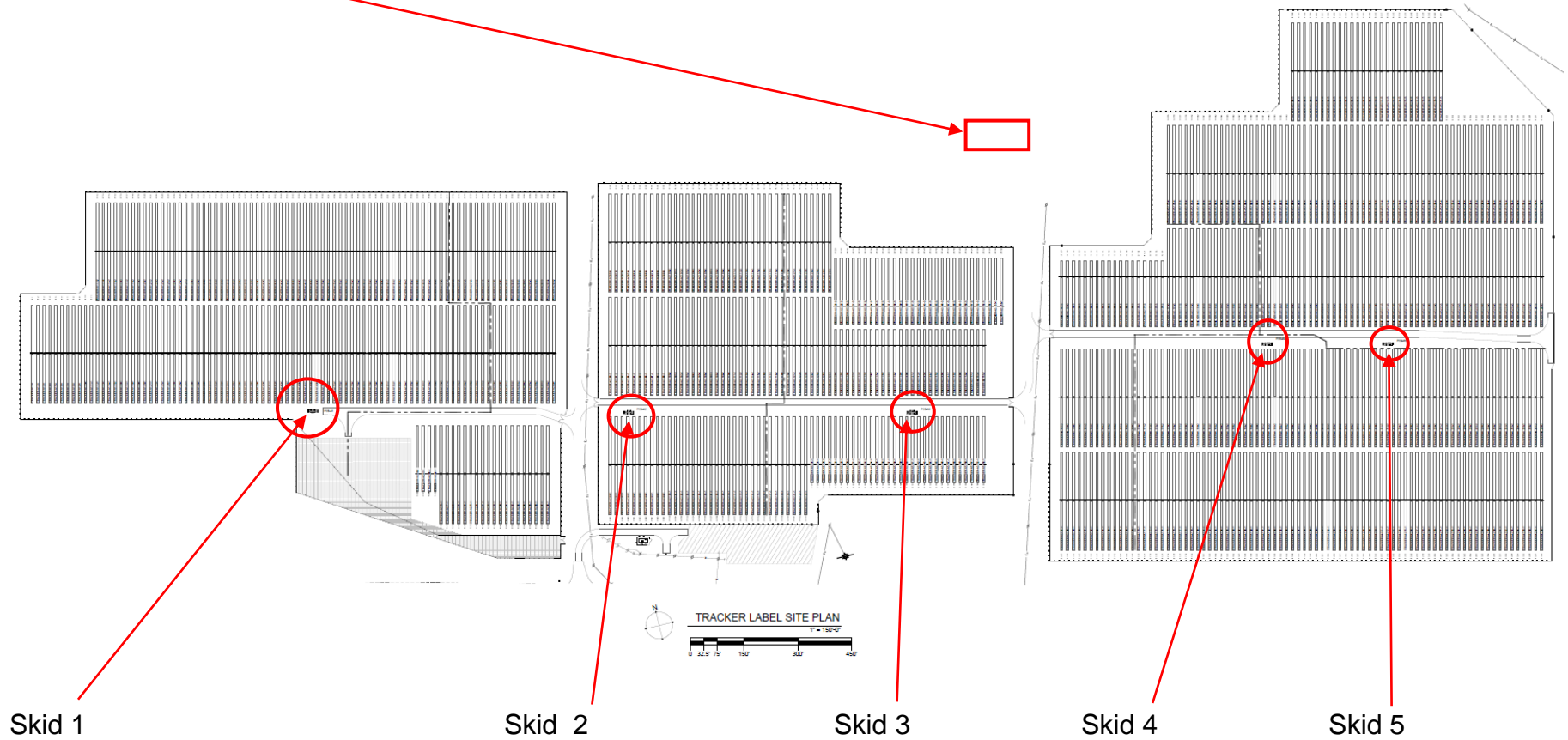
Mailing Address: 2060 Cook Drive, Salem, VA 24153 USA

Summary of Findings

Location	Before (with Louvers)	After (with Hoods)
Skid 1	93.2	83.0
Skid 2	95.0	83.3
Skid 3	93.4	83.6
Skid 4	92.5	84.6
Skid 5	92.7	84.6
Residence	49.8	47.1

General Site Layout

Residence House – relative location to the Plant





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Skid configuration (typical of all 5) with Factory installed Louvers

Fig. 1:



Skid configuration (typical of all 5) with Sound Reducing Hoods installed (retro-fitted)

Fig. 2:



Set-Up

All measurements were made In-Situ. The Sound Meter was positioned 1 meter high and 1 meter from the Intake or Exhaust of each unit, or the end of skid or Transformer.

Fig. 3





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Data:

SKID 1												SKID Average Sound Level													
LOUVERS		HOODS		LOUVERS		HOODS		LOUVERS		HOODS		LOUVERS		HOODS											
93.4		81.8		91.8		81.7		82.6		75.8		90.0		81.5		88.9		80.7		93.2		83.0			
meter position 11		meter position 10		meter position 9		meter position 8		meter position 7																	
Inverter 1		Inverter 2		Transformer		Inverter 3		Inverter 4		Aux Rack		meter position 6													
meter position 12		meter position 11		meter position 10		meter position 9		meter position 8				meter position 7		LOUVERS		HOODS									
76.2		74.8										81.4		75.6											
meter position 1		meter position 2		meter position 3		meter position 4		meter position 5																	
LOUVERS		HOODS		LOUVERS		HOODS		LOUVERS		HOODS		LOUVERS		HOODS		LOUVERS		HOODS							
97.1		85.5		97.0		86.6		85.1		79.7		95.7		86.3		97.0		85.7							
FRONT of Inverters																									



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Data:

SKID 2										SKID Average Sound Level			
meter position 2		meter position 3		meter position 4		meter position 5		meter position 6		meter position 7		meter position 8	
LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS
79.9	74.7	89.7	82.3	91.8	82.1	85.3	76.0	91.4	82.7	94.0	81.9	95.0	83.3
Inverter 1		Inverter 2		Transformer		Inverter 3		Inverter 4		Aux Rack			
meter position 1		meter position 12		meter position 11		meter position 10		meter position 9					
98.6	85.6	97.9	86.7	87.3	80.3	98.9	85.9	99.5	86.0				
FRONT of Inverters													



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Data:

SKID 3												SKID Average Sound Level	
meter position 4		meter position 5		meter position 6		meter position 7		meter position 8		meter position 9		LOUVERS	HOODS
LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	93.4	83.6
89.0	81.7	90.9	82.5	85.0	75.5	90.3	82.7	89.2	84.1				
Inverter 1		Inverter 2		Transformer		Inverter 3		Inverter 4		Aux Rack			
meter position 3		meter position 1		meter position 12		meter position 11		meter position 10					
LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	82.2	77.9
78.6	74.9	96.8	86.7	88.5	80.4	96.2	86.4	98.5	86.7				
FRONT of Inverters													



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Data:

SKID 4													
meter position 2		meter position 3		meter position 4		meter position 5		meter position 6		meter position 7		SKID Average Sound Level	
LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS
79.2	74.7	90.2	82.1	89.3	82.9	83.9	76.5	89.6	83.3	88.9	83.8	92.5	84.6
Inverter 1		Inverter 2		Transformer		Inverter 3		Inverter 4		Aux Rack		meter position 8	
meter position 1		meter position 12		meter position 11		meter position 10		meter position 9				LOUVERS	HOODS
94.5	85.9	97.0	87.7	88.5	81.0	96.8	88.7	96.2	87.9				
FRONT of Inverters													



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Data:

SKID 5													
	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS		SKID Average Sound Level	
	88.2	83.2	89.3	82.7	83.9	75.4	88.6	84.0	88.7	84.0		LOUVERS	HOODS
	meter position 3		meter position 4		meter position 5		meter position 6		meter position 7			92.7	84.6
	Inverter 1		Inverter 2		Transformer		Inverter 3		Inverter 4		Aux Rack	meter position 8	
meter position 2	LOUVERS	HOODS										LOUVERS	HOODS
	79.2	75.1										83.7	79.8
	meter position 1		meter position 12		meter position 11		meter position 10		meter position 9				
	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS	LOUVERS	HOODS			
	96.2	86.4	95.4	87.6	89.0	80.2	97.5	88.3	96.7	87.8			
FRONT of Inverters													

General position of testing close to Residence House:



- Position 1 At property flag facing SW, toward skid 3
- Position 2 In road to house – facing SW, toward skid 3
- Position 3 At fence facing SE, toward skid 4



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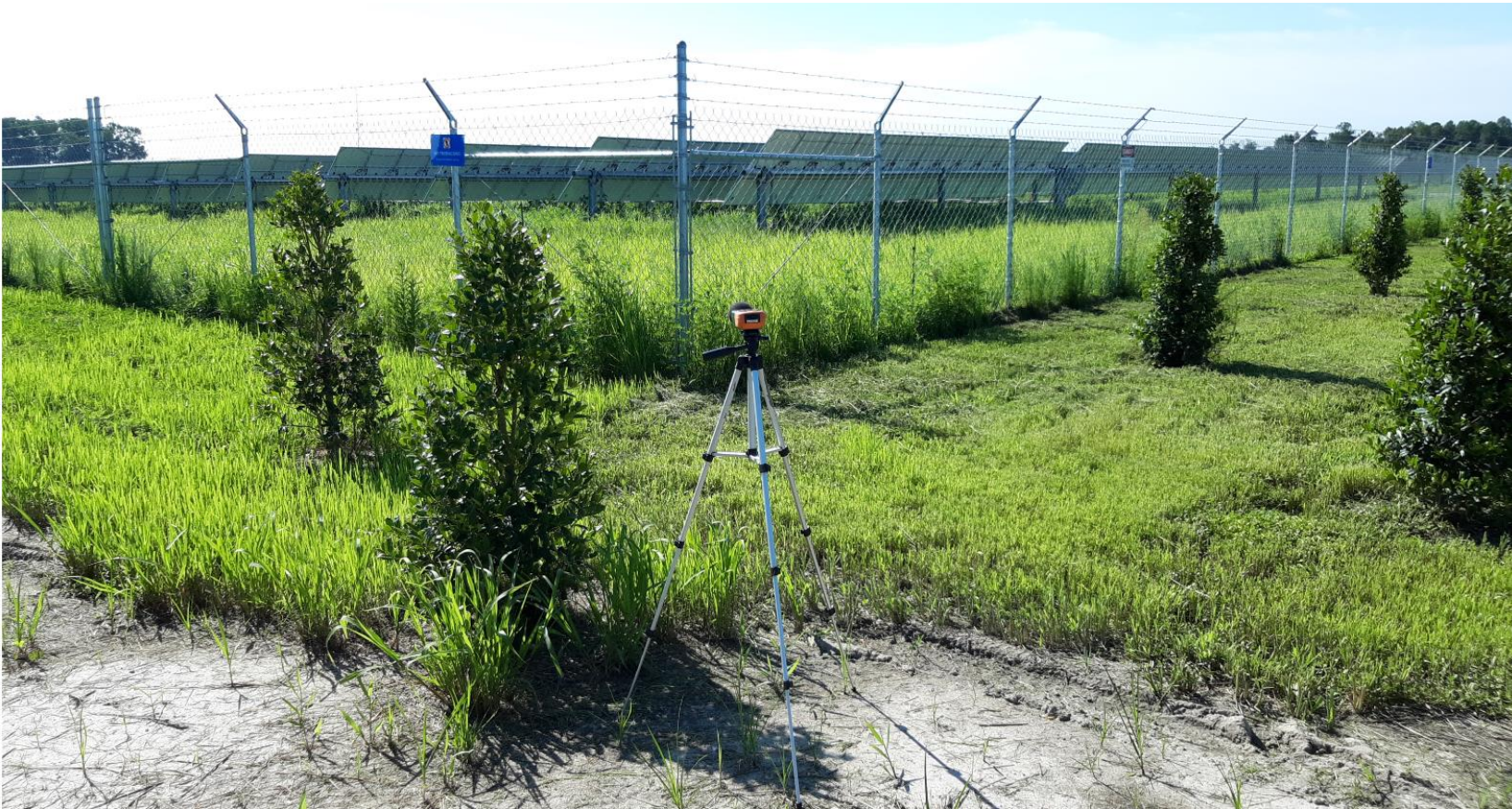
Data – Residence House:

Overall sound level at Residence House

With Louvers	With Hoods
49.8 dB	47.1 dB

Sound level at each location by Residence House

Location	With Louvers	With Hoods
Position 1 At property line flag – facing SW toward Skids 2 and 3	49.4	47.0
Position 2 In road to property – facing SW toward Skids 2 and 3	49.3	47.6
Position 3 At property line fence – facing SE toward Skids 4 and 5	50.5	46.6

Set-up of Sound Meter facing SE toward Skids 4 and 5:



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Test Method

Sound Data-Logger settings:

The Sound Meter also performs data logging in csv format. The settings for data logging are:

A-weighted measurement type.

Sampling rate = 2 seconds.

Averaging set to Slow.

Procedure

Immediately prior to datalogging, the Sound Level Meter reading is verified with a Calibrator (94dB @ 1000 Hz).

Sound Level data logged in this method:

- Log data at first position for 2 minutes.
- Pause data logging.
- Move Sound Meter to second position.
- Log data for 2 minutes.
- Continue in this manner for all positions.

Operating Mode:

- All inverters were operating at full Rated Output.

Data Summary Method:

Method for a single Skid (or the Residence House):

- Data is recorded at each Position for 2 minutes, at a rate of one sample every 2 seconds.
- The first 55 recorded values at each measurement Position is then Averaged into a single value.
- Each of these Position values are entered into Equation 12 from ISO 3744 – 2010:

Equation (12):

$$\overline{L'_{p(ST)}} = 10 \lg \left[\frac{1}{N_M} \sum_{i=1}^{N_M} 10^{0,1 L'_{pi(ST)}} \right] \text{ dB}$$

where

$L'_{pi(ST)}$ is the frequency-band or A-weighted time-averaged sound pressure level measured at the i th microphone position or i th microphone traverse with the noise source under test (ST) in operation, in decibels;

N_M is the number of microphone positions or individual microphone traverses.

- The result is the Averaged Sound Level for each Skid (or Residence House).

Appendix A – Test Equipment:



- Extech Sound Level Meter, Model SDL600.
- Calibrator Extech Model ND9.




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Appendix B – Calibration Certificate for Sound Meter:



Instrument Calibration
TECHNICAL SERVICES

Certificate Number 2020006567

Calibration Certificate

TMEIC - Salem
2060 Cook Drive
Salem, VA 24153

ID 343282	Procedure Name Sound Level
Description Sound Level Meter	Tolerance ±1.4 dB
Manufacturer EXTECH	Temperature 69
Model Number SDL600	Humidity 42
Serial Number 343282	Received In Tolerance
Service Date 7/20/2020	Returned Pass
Due Date 7/20/2021	
On Site Calibration No	

Work Order Notes: Adjusted unit to improve accuracy. Accuracy verified to be within Manufacturer's specifications.

See attached data sheet(s) for measurement data


Standards Used			
Description	Service Date	Due Date	ID
Calibrator, Sound Level	7/24/2018	7/31/2021	IC-10658
Recorder, Temperature, Humidity	3/5/2020	3/31/2021	IC-11611

This calibration was performed in compliance with the ICTS Quality System, ISO9001:2015, ANSI/NCSL Z540-1-1994 and the specific requirements of the customer's order. The measurement standards used are traceable to the National Institute of Standards and Technology (NIST), fundamental or natural physical constants, National Standards of other countries which are correlated with U.S. National Standards, ratio type or self calibrating techniques, or comparison to consensus standards. A Test Uncertainty Ratio of 4:1 was maintained unless specified. This certificate may not be reproduced, except in full, without the approval of ICTS, Inc.

Calibration Technician: Brian Hood
Instrument Calibration & Technical Services
 5312 Peters Creek Rd., Suite E
 Roanoke, VA 24019
 Roanoke, VA 24019

QA Approval: Rebecca Hood

Page 1



7/20/2020



DATA SHEET

CUSTOMER: TMEIC

ID#: 343282
WORK ORDER #: 2020006567
MANUFACTURER: Extech
MODEL: SDL600
DESCRIPTION: Sound Level Meter
SERIAL NO: 343282

Reviewed By: Brian Hood

Date: 7/20/2020

Function/Range	Nominal	Minimum	As Found	Maximum	As Left
dB/Auto	94	92.6	95.1	95.4	93.9
Mode - Slow	114	112.6	115.2	115.4	114.2
Weighting - A					

Manufacturer's Specified Accuracy: ± 1.4 dB
 All readings are within specifications unless otherwise indicated in
 Unless otherwise indicated, As Left reading is As Found.
Adjusted to improve.



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Sound Level Report – Ninja With Production Vent Hoods

Inverter Model: PVU-0840GR
Inverters Tested: PVU-0840GR
Project: Sound Level Report

Location: TMEIC UL Lab - Roanoke
2060 Cook Drive, Salem, VA 24153

Dates of tests: January 27, 2020
Report By: Bryan Hardman
Last revision: 28 JAN 2020

Tested By: Bryan Hardman, Bryan Young

Overview:

The Sound Level of the Model PVU-0840GR with production vent hoods is to be verified.

Testing conducted according to methods detailed in ISO 3744 – 2010.

Results:

The installation of the vent hoods reduced the sound level to below 80dB @ 1 meter.



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Unit Tested (Equipment Under Test, or EUT):

Fig. 1:

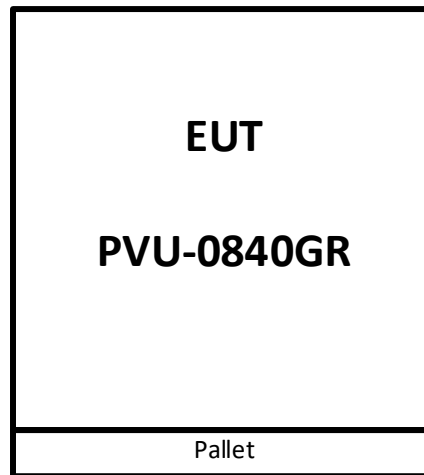


Set-Up

In order to reduce ambient sounds as much as practical, the EUT was set-up in a warehouse. The dimensions of the surroundings:

- Warehouse floor to ceiling: 8.24 meters
- EUT Left side to closest wall: 8.0 meters
- EUT Front side to closest object (Guardian) : 3.34 meters
- EUT Right side to closest object (bags of limestone): 4.89 meters
- EUT Rear side to closest object (Inverter in storage): 3.75 meters

- EUT dimensions:
 - 1.1 meter wide
 - 1.2 meter deep.
- EUT on a pallet:
 - 0.14 meter high

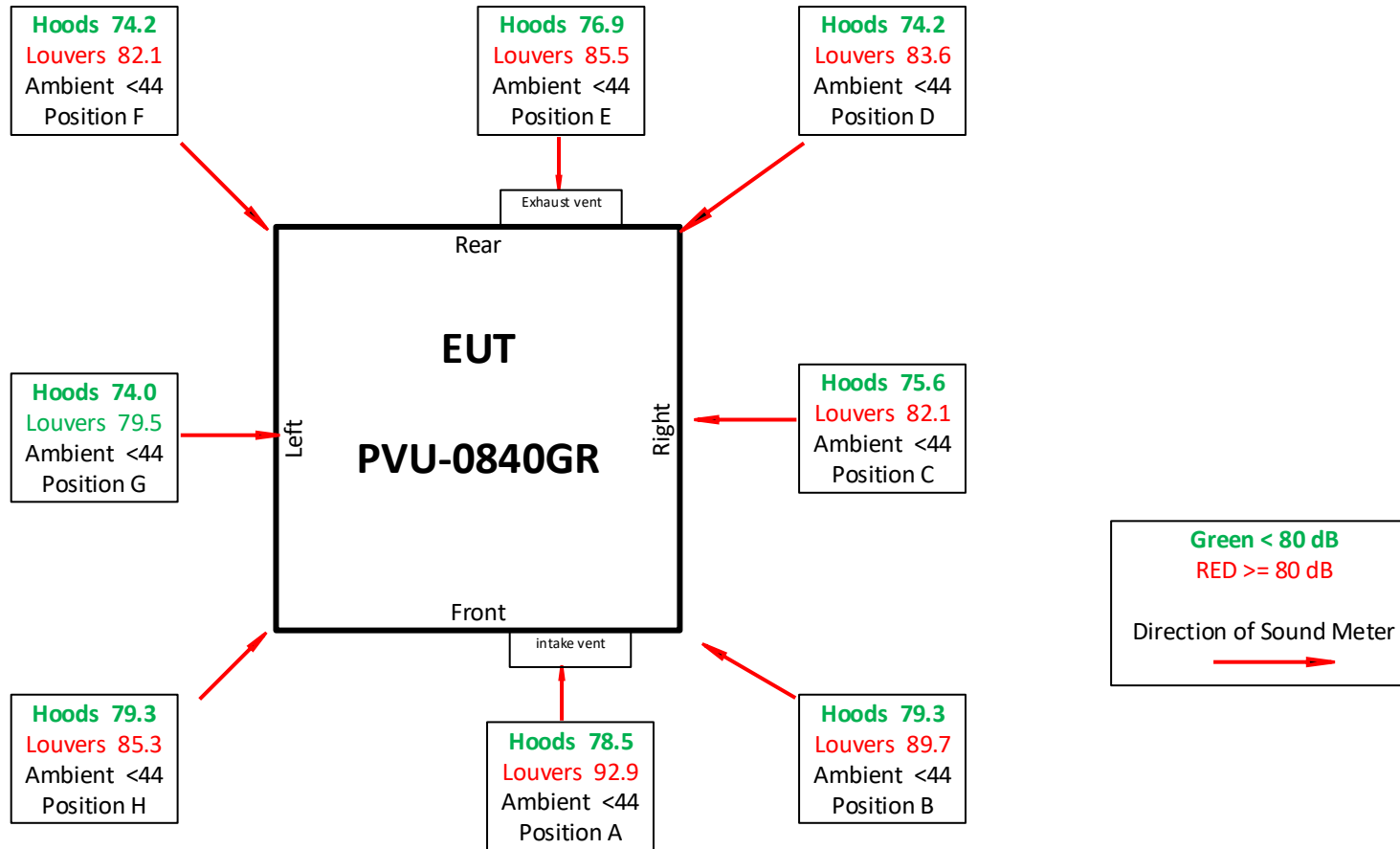


The EUT was situated in the warehouse as shown in Fig. 2 below.

- Each of the 8 positions was located 1 meter from the EUT surface.
- Sound meter situated on a tripod and set 1.14 meter from the floor in order to adjust the location to 1 meter above the bottom of the EUT.

Set-Up

Fig. 2:

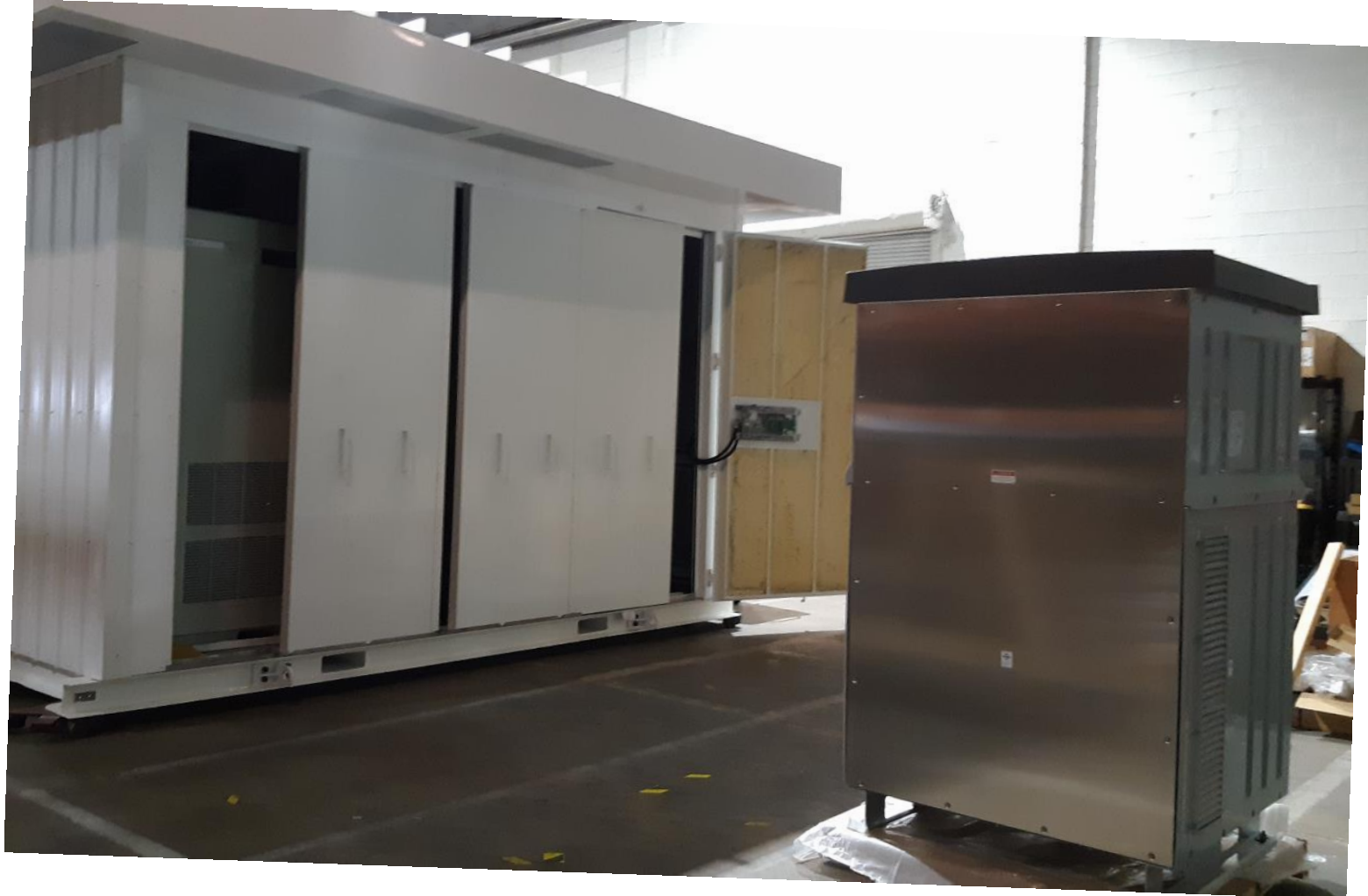


Set-up Photos:

Front of EUT in place



Rear of EUT in place





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Front with Louvers



Rear with Louvers





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Front with vent hood



Rear with vent hood





Sound Meter calibration



DC power supply for fans



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Test Method

Sound Data-Logger settings:

The Sound Meter also performs data logging in csv format. The settings for data logging are:

A-weighted measurement type.

Sampling rate = 2 seconds.

Averaging set to Slow.

Procedure

Immediately after datalogging, the Sound Level Meter reading is verified with a Calibrator (94dB @ 1000 Hz).

Sound Level data logged in this method:

- Log data at Location A for 2 minutes.
- Pause data logging.
- Move Sound Meter to Location B.
- Log data for 2 minutes.
- Continue in this manner for all 8 Locations.

Operating Mode:

- EUT fans running
 - data was logged from each location
 - Ambient measurements were >15dB below operating measurements and are not material to the measurements according to ISO 3744 – 2010.

*Data collected with an Extech Sound Level Meter, Model SDL600.
Calibrator is Extech Model ND9.



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Data Summary:

Two-minute data collection averaged into a single value.

Location	with Louvers	With Vent Ducts on Input and Output
A	92.9	78.5
B	89.7	79.3
C	82.1	75.6
D	83.6	74.2
E	85.5	76.9
F	82.1	74.2
G	79.5	74.0
H	85.3	79.3
Average	85.1	76.5

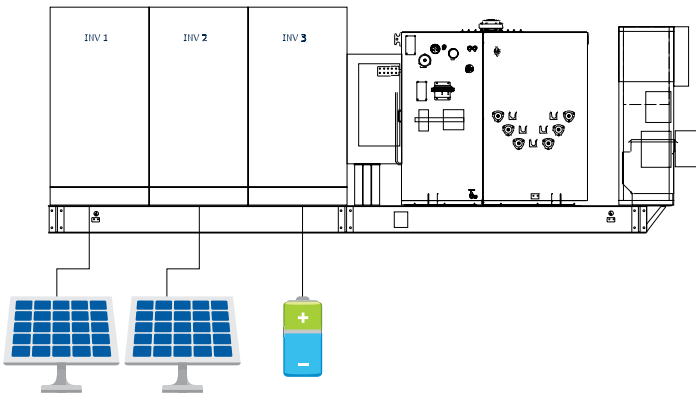
Data:

Raw data files are on file but not provided in this Report.

Multiple Configurations for Maximum Flexibility

TMEIC's Solar Ware Ninja is the latest evolution of the highly successful Solar Ware family of inverters, joining over 14GW of TMEIC's globally installed photovoltaic inverters. Continuing the legacy of high efficiency, cutting-edge features, and unmatched reliability, the new Ninja modular inverter system is the culmination of input from utilities, developers, and technicians.

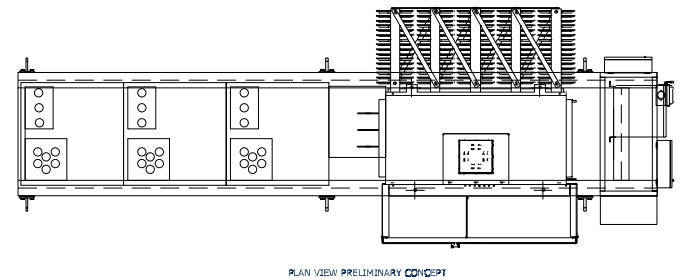
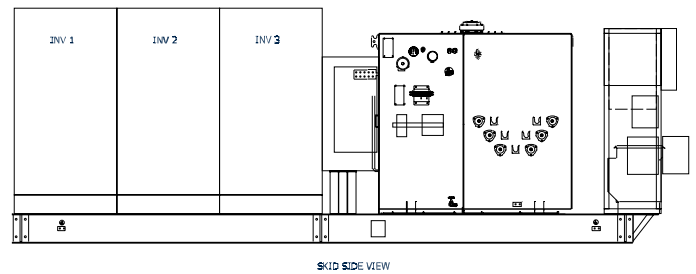
The Ninja is a global product, performing the duties of both generation and energy storage. The modular system introduces multiple layers of flexibility to allow designers an almost unlimited number of options for every project. The advanced controls system is packed with features to meet not only today's smart inverter requirements, but also new requirements as they are introduced. Like the award-winning Samurai series of inverters, the Ninja utilizes the same highly reliable IGBT based power conversion system.



Customizable Block

Up to 6 Ninja units on the same skid. Able to combine PV and ESS inverters in the same lineup. A skid controller will manage output of the Ninja power station.

- Fully Modular design means:
 - Completely independent inverters for increased availability
 - Individual MPPT for greater energy yield
 - Latest generation of Smart Inverter controls platform
 - Multiple output options with various MPPT ranges
- DC Zone monitoring is standard
- UL or IEC certified global design
- PV or Energy Storage (bi-directional)
- Outdoor rated enclosure



TMEIC is Bankable

- Stable, with multi billion \$USD revenue
- Diversified, with decades of power electronics experience in a variety of heavy industries, including metals, oil & gas, mining, and container cranes industries
- Manufacturing in the US and several other locations

TMEIC is Reliable

- Over 14GW of PV and ESS inverters globally
- Own exclusive use of Mitsubishi Electric's 3 level NPS technology
- Industry leading fleet availability

TMEIC is Support

- Award winning service
- 24/7 US based hot line
- Over 30 years PV inverter manufacturing and R&D experience
- Comprehensive customer training programs
- Authorized Service Provider program available

		PV-PCS			
Type		PVU-L0800GR	PVU-L0840GR	PVU-L0880GR	PVU-L0920GR
Output side (AC)	Rated Power@25°C	800kW	840kW	880kW	920kW
	Rated Power@50°C	730kW	765kW	800kW	840kW
	Rated Voltage	600V +10%, -12%	630V +10%, -12%	660V +10%, -12%	690V +10%, -12%
	Rated Frequency	50Hz / 60Hz (+0.5Hz, -0.7Hz)			
	Rated Power Factor	>0.99			
	Reactive Capability	+/- 421 kVAR	+/- 442 kVAR	+/- 464 kVAR	+/- 485 kVAR
	Rated Current	702 Arms @50 °C			
	Maximum Current	770 Arms @25 °C			
	Maximum Efficiency	98.9% *Tentative			
	CEC Efficiency	98.5% *Tentative			
Input side (DC)	Maximum Voltage	1500 Vdc			
	MPPT Operation Range	875-1300VDC	915-1300VDC	960-1300VDC	1005-1300VDC
Environ. Conditions	Ingress Protection Ratings	IP54 / NEMA3R			
	Installation	Outdoor			
	Ambient Temperature Range	-25° to 50°C			
	Maximum Altitude	>2000 m power derating (Max. 4000m)			
Protective Functions	Input (DC) Side	DC Protection: Fuses Ground Fault, DC Reverse Current, Over Voltage, Over Current			
	Grid (AC) Side	AC Protection: MCCB and Fuse Anti-islanding, Over/Under Voltage, Over/Under Frequency, Over Current			
	Grid Assistance	Reactive/Active Power Control, Power Factor Control, Fault Ride Through (optional)			
Harmonic Distortion of AC Current	≤ 3% THD (at rated power)				
Communication	Modbus/TCP				
Fault Analysis	Fault Event Log, Waveform Acquisition via memory card				
Compliance	UL1741, UL1745A / IEEE1547 / NEC2017 / IEC62109-1,2 / IEC61000-6-2,4 / IEC61727, IEC62116 / IEC61400, BDEW / IEC61683 / IEC60068 *Tentative				
Cooling Method	Forced Air Cooling				
Number of Inputs	Standard 6 inputs for PV (maximum 8 per inverter)				
Standard Control Power Supply	Control Power Supply from Inverter output and Capacitor backup circuit (3 sec. compensation)				
Weight	<1000kgs *Tentative				
Dimensions (H x W x D)	1100 X 1100 X 1900 mm (L x W x H)				
Floor Space	1875.5 sq. in. (1.21 m ²)				
Color	Cabinet: Sand White #Dic583				

Ken Kaliski

From: Neil Habig <neil.habig@communityenergyinc.com>
Sent: Wednesday, March 17, 2021 1:23 PM
To: Eddie Duncan
Cc: Lauren Brunsdale
Subject: FW: Transformer Specs

CAUTION - EXTERNAL EMAIL

Hi Eddie – specs for transformer below. It is only 120 MVA – so you will have to assume there are 2 units in the substation.

Thanks,

Neil

B.I.L HV / HVN winding 650/250 kV
 XV / XVN winding 200/125 kV
 TV winding 110 kV

Sound level (dB) 80/82/83 dB

Regards,

MAX TRANSFORMER MVA	120
Power (MVA)	72/96/120
Tertiary rating (MVA)	24
HV Winding (kV)	115/125/138
HV Winding (connection)	grounded Wye
HV taps	OLTC, +/- 20%, 16 steps
LV Winding (kV)	34.5
LV Winding (connection)	grounded Wye
Tertiary Winding (kV)	13.8
Tertiary Winding (connection)	buried Delta

Exhibit 8:
Approximate Plant Count

Mitigation Plant Counts

Hemlock Ridge Solar

Module 1 (35' x 300')

Plant Type	Number per Module	Module Length	Total Applied Length	Total Number of Plants
<i>Large Mass-Forming Shrub</i>	5	300	26,588	443
<i>Medium Shrub</i>	6	300	26,588	532
<i>Small Shrub</i>	6	300	26,588	532
			Module Total	1,507

Module 2 (25' x 400')

<i>Medium Deciduous Tree</i>	2	400	24,648	123
<i>Small Flowering Tree</i>	3	400	24,648	185
<i>Small / Medium Evergreen</i>	4	400	24,648	246
<i>Large Mass-Forming Shrub</i>	4	400	24,648	246
<i>Medium Shrub</i>	9	400	24,648	555
			Module Total	1,356

Module 3 (35' x 400')

<i>Large Deciduous Tree</i>	2	400	16,324	82
<i>Large Evergreen Tree</i>	7	400	16,324	286
<i>Medium Deciduous Tree</i>	3	400	16,324	122
<i>Small Flowering Tree</i>	3	400	16,324	122
<i>Small / Medium Evergreen</i>	4	400	16,324	163
<i>Large Mass-Forming Shrub</i>	6	400	16,324	245
<i>Medium Shrub</i>	14	400	16,324	571
<i>Small Shrub</i>	14	400	16,324	571
			Module Total	2,163

Plant Type	Total Number of Plants
<i>Large Deciduous Tree</i>	82
<i>Medium Deciduous Tree</i>	246
<i>Small Flowering Tree</i>	307
<i>Large Evergreen</i>	286
<i>Small / Medium Evergreen</i>	410
<i>Large Mass-Forming Shrub</i>	934
<i>Medium Shrub</i>	1658
<i>Small Shrub</i>	135

Grand Total

4057

Exhibit 9:
NYSOPRHP Response Letter



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

February 16, 2022

Doug Pippin
Senior Project Manager - Archaeology
Environmental Design & Research
217 Montgomery Street
Syracuse, NY 13202

Re: ORES
Hemlock Ridge Solar Project (200MW/2,868 Acres) (Formerly Orleans Solar)
Towns of Barre & Shelby, Orleans County
21PR01349
ORES Case No. 20-00197

Dear Doug Pippin:

Thank you for your continued consultation with the Division for Historic Preservation of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the submitted materials in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Historic/Cultural resources.

We have reviewed the submission received on January 14, 2022, including the Preliminary Cultural Resources Avoidance, Minimization and Mitigation Plan dated January 2022. Based on that review, we note that the involved parties have made a good faith effort to communicate directly with the local community to identify community needs and develop specific preservation/history projects to meet those needs. Therefore, the Technical Services Unit has no concerns with the mitigation plan as proposed.

We further note that sites EDR-OS-003 (USN 07302.000055) and EDR-OS-007 (USN 07302.000059) are located in areas where PV Arrays will be erected and will thus not be significantly impacted. If project impacts in the areas of these sites change, OPRHP recommends further consultation with our office. The Preliminary Cultural Resources Avoidance, Minimization and Mitigation Plan prepared by EDR (January 2022) indicates a commitment to avoid significant impacts to EDR-OS-006. Therefore, the Archaeological Unit has no further archaeological concerns.

In order to move forward with the project, the next step is to begin drafting a Letter of Resolution to memorialize the mitigation measures identified in the submitted mitigation plan.

We would appreciate additional submissions be provided via our Cultural Resource Information System (CRIS) at www.nysparks.com/SHPO/online-tools/. To submit, log into CRIS as a guest, choose "submit" at the very top of the menu. Go to "Other Options" and choose "submit new information for an existing project."

If you have any questions, I can be reached at (518) 268-2170.

Sincerely,

A handwritten signature in black ink, appearing to read "Robyn Sedgwick". The signature is written in a cursive style with a large initial "R".

Robyn Sedgwick
Historic Site Restoration Coordinator
e-mail: robyn.sedgwick@parks.ny.gov

via e-mail only

Exhibit 16:
Output of the FAA Notice Criteria Tool



Notice Criteria Tool

Notice Criteria Tool - Desk Reference Guide V_2018.2.0

The requirements for filing with the Federal Aviation Administration for proposed structures vary based on a number of factors: height, proximity to an airport, location, and frequencies emitted from the structure, etc. For more details, please reference CFR Title 14 Part 77.9.

You must file with the FAA at least 45 days prior to construction if:

- your structure will exceed 200ft above ground level
- your structure will be in proximity to an airport and will exceed the slope ratio
- your structure involves construction of a traverseway (i.e. highway, railroad, waterway etc...) and once adjusted upward with the appropriate vertical distance would exceed a standard of 77.9(a) or (b)
- your structure will emit frequencies, and does not meet the conditions of the FAA Co-location Policy
- your structure will be in an instrument approach area and might exceed part 77 Subpart C
- your proposed structure will be in proximity to a navigation facility and may impact the assurance of navigation signal reception
- your structure will be on an airport or heliport
- filing has been requested by the FAA

If you require additional information regarding the filing requirements for your structure, please identify and contact the appropriate FAA representative using the Air Traffic Areas of Responsibility map for Off Airport construction, or contact the FAA Airports Region / District Office for On Airport construction.

The tool below will assist in applying Part 77 Notice Criteria.

Latitude:	<input type="text" value="43"/> Deg	<input type="text" value="09"/> M	<input type="text" value="13.14"/> S	<input type="button" value="N"/> <input type="button" value="v"/>
Longitude:	<input type="text" value="78"/> Deg	<input type="text" value="14"/> M	<input type="text" value="54.76"/> S	<input type="button" value="W"/> <input type="button" value="v"/>
Horizontal Datum:	<input type="button" value="NAD83"/> <input type="button" value="v"/>			
Site Elevation (SE):	<input type="text" value="640"/> (nearest foot)			
Structure Height :	<input type="text" value="12"/> (nearest foot)			
Traverseway:	<input type="button" value="No Traverseway"/> <input type="button" value="v"/>			
	<small>(Additional height is added to certain structures under 77.9(c)) User can increase the default height adjustment for Traverseway, Private Roadway and Waterway</small>			
Is structure on airport:	<input checked="" type="radio"/> No <input type="radio"/> Yes			

Results

You do not exceed Notice Criteria.

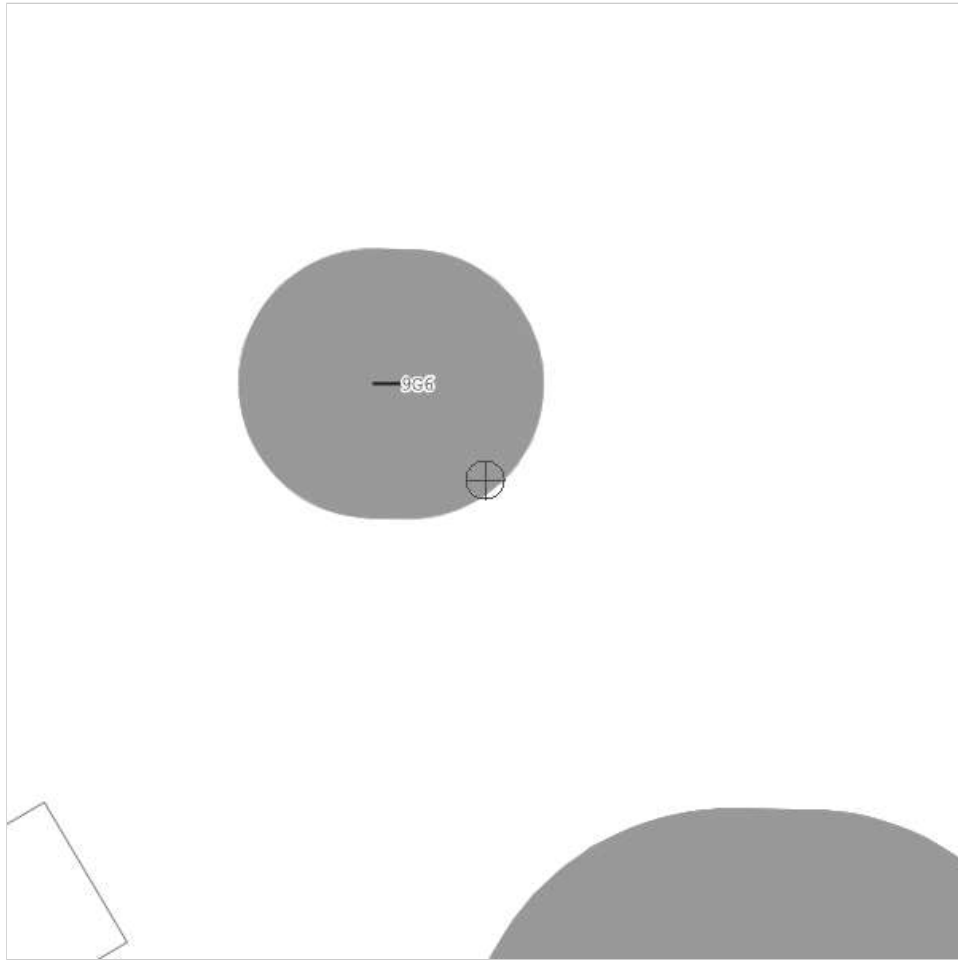


Exhibit 24:

Revised Appendix 24-A- Local Laws and Ordinances

REVISED
Appendix 24-A
LOCAL LAWS AND ORDINANCES

Town of Barre 2019:

Local Law 1 of the Year 2019

Town of Barre:

Local Law 2 of the Year 2021

Town of Barre:

Zoning Regulations

Town of Shelby:

Local Law 1 of the Year 2019 - A Local Law Regulating Solar Energy Systems

Town of Shelby:

Local Law No. 1 of the Year 2021 - A Local Law to Amend the Town Law Regulating Solar Energy Systems

Town of Shelby:

Zoning Regulations

Local Law Filing

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

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

County City Town Village
(Select one.)

of Barre

FILED
STATE RECORDS
SEP 05 2019
DEPARTMENT OF STATE

Local Law No. 1 of the year 2019

A local law (Insert Title) Amending the Town Code to Establish a New Article XII Entitled Solar Energy Systems and Facilities', and to Amend the Schedule of Use Regulations to Provide for those Facilities.

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

County City Town Village
(Select one.)

of Barre

as follows:

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

TOWN OF BARRE

LOCAL LAW 1 OF THE YEAR 2019

BE IT ENACTED by the Town Board of the Town of Barre as follows:

Section I: Title.

This Local Law shall be entitled as: “A Local Law Amending the Town Code to Establish a New Article XII Entitled ‘Solar Energy Systems and Facilities’, and to Amend the Schedule of Use Regulations to Provide for those Facilities”.

Section II: Amendments to Town Code Establishing Article XII

The Town of Barre Town Code is hereby amended to establish a new Article XII entitled: “Solar Energy Systems and Facilities” as follows:

350-112 Purpose and Intent

Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Barre’s current and long-term sustainability agenda. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this law is to facilitate the development and operation of renewable energy systems based on sunlight while minimizing adverse impacts on neighboring properties to protect the public health, safety and welfare

350-113 Definitions

As used in this law, the following terms shall have the meanings indicated, unless the context or subject matters require others.

Alternative Energy Systems – Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or be separate from the principal structure.

Building-Integrated Photovoltaic (BIPV) Systems – A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the line of the roof.

Collective Solar – Solar installations owned collectively through subdivision homeowner associations, condominium associations, “adopt-a-solar panel” programs, or other similar collective arrangements.

Farm – For the purposes of this section an agriculture farm is one that has an average of \$10,000 in gross sales and has at least 7 acres of land used to produce livestock, or crops for the preceding two years.

Flush-Mounted Solar Panel – A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System – A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this chapter.

Glare – As defined by NYSERDA in the model solar energy local law: The effect of reflection of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss of visual performance and visibility in any material respects.

Net Metering – A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the public utility grid so that they only pay for their net electricity usage at the end of the month or year.

NYSPE – New York State Professional Engineer

Permit Granting Authority – The Town’s Code Enforcement Officer who is charged with granting permits for the operation of solar systems.

Photovoltaic (PVT) System – A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

Qualified Solar Installer – A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town’s permit granting authority or such other Town Officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

Rooftop or Building Mounted Solar System – A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Setback – The required minimum distance from the property line to the nearest part of the structure measured at the right angles to the property line within which a freestanding or ground-mounted solar energy system is installed.

Small-Scale Solar – Refers to solar photovoltaic systems or solar thermal that produce up to 25 Kilowatts (kW) of energy or solar thermal systems which serve the building to which it is attached or one associated on that tax parcel in accordance with section 350-116 and section 350-117 of this law.

Solar Access – Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Collector – A solar photovoltaic cell, panel or array, or solar hot air or water collector device which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Easement – An easement recorded pursuant to New York Real Property Law §335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

Solar Energy Equipment System – Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form or energy, stored protected from unnecessary dissipation and distributed. Solar systems include solar thermal and photovoltaic. A solar energy system does not include any solar energy system of 32 square foot in size or less.

(USSES) Utility Scale Solar Energy System (USSES)– Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies with the primary purpose of wholesale or retail sales of electricity.

Solar Panel – A device for the direct conversion of solar energy into electricity.

Solar Storage Battery – A device that stores energy from the sun and makes it available in an electrical form.

Solar Thermal Systems – Solar energy systems that directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

350-114 Applicability

- A. The requirements of this law shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Local Law.
- B. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law, shall not be required to meet the requirements of this local law.
- C. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Barre Town Code.
- D. Solar collectors, unless part of a (USSES) or solar power plant, shall be permitted only to provide power for use by owners, lessee, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute.
- E. Notwithstanding any other provision of this Local Law, any solar energy systems installed on a farm and designed to serve only that farm, shall only require a building permit for systems under 50 kW. Agricultural farm-installed solar energy systems of 50 kW or more shall require a building permit and site plan review.
- F. This section shall not apply to any premises or property owned or controlled by the Town of Barre which shall be exempt from these solar zoning requirements.

350-115 Permitting and Approvals Required

- A. Rooftop or building mounted solar systems shall be permitted in all zoning districts pursuant to a solar system building permit granted by the Town's Code Enforcement Officer and subject to the requirements of this article.
- B. Freestanding or ground mounted solar energy systems for residential use in all districts are subject to the issuance of a solar system building permit and for systems in excess of 25 kW, a site plan approval by the Planning Board is required.
- C. (USSES)s shall be permitted only in the AR District subject to a solar system building permit and a special use permit and a site plan approval by the Planning Board.
- D. Building-Integrated photovoltaic (BIPV) systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing the system approved by the Town's Code Enforcement Officer.
- E. Solar thermal systems are permitted in all zoning districts, subject to the conditions set forth hereinafter.

350-116 Requirements for Rooftop, Building Mounted and Wall Mounted Solar Collectors

- A. Rooftop and building-mounted solar collectors may exceed the maximum height prescribed for principal or accessory uses for the applicable zoning district, but only extend by 3 feet higher than the finished roof to which it is mounted. The solar array must be set back a minimum of 18 inches from all edges of the rooftop and the top ridge line, to allow for firefighter access to the rooftop area.

- B. Fire safety and emergency access – All such installations shall comply with the New York State Uniform Fire Prevention and Building Code (the “State Code”) to insure firefighter and other emergency responder safety and access.

350-117 Requirements for Small Scale Freestanding and Ground-Mounted Solar Collectors

- A. Freestanding and ground-mounted solar collections shall be subject to the following conditions:
1. In all Districts, a lot must have a minimum size of 40,000 square feet for a freestanding or ground-mounted solar collector to be permitted.
 2. The location of a ground-mounted or freestanding solar collector shall comply with the setback requirements for accessory buildings, as set forth in the Barre Town Code.
 3. No ground-mounted or freestanding solar collectors shall be permitted in the front yard.
 4. The height of the solar collector and any mount shall not exceed 20 feet when oriented at a maximum tilt.
 5. Ground-mounted and freestanding solar collectors shall be screened as much as possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not, however, interfere with the normal operation of the solar collectors.
 6. Solar energy equipment shall be located in a manner to reasonably minimize blockage of sunlight for surrounding properties and shading of property to the north while still providing adequate solar access for collectors.
 7. Solar energy equipment shall not be sited within any required buffer areas.
 8. The total surface area of all ground-mounted and freestanding solar collectors on a lot shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks, and balconies, screened and open porches and attached garages. Installations on non-residential properties exceeding the size may be approved by the Planning Board subject to site plan review pursuant to Article X of the Barre Town Code.
 9. The area beneath ground-mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted lot building coverage and lot surface coverage requirements for the applicable district, notwithstanding that the collectors are not “buildings”.
 10. The installation of ground-mounted and freestanding solar collectors shall be considered a development or development activity.
 11. Solar thermal systems shall comply with the following conditions:
 - a. Building permits are required for the installation of solar thermal systems.
 - b. Ground-mounted and freestanding solar thermal systems shall be subject to the same requirements set forth in subsection 350-117(A) above for ground-mounted and freestanding solar collectors.

12. All solar energy systems and equipment shall be permitted only if they are determined by the Town Code Enforcement Officer not to present any unreasonable safety risks including, but not limited to, the following:
 - a. Weight load.
 - b. Wind resistance.
 - c. Ingress or egress in the event of fire or another emergency.
13. Prevention of glare.
 - a. All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties.

350-118 Safety

- A. All solar collector installations must be performed by a qualified solar installer.
- B. Prior to operation, electrical connections must be inspected by the Town's Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
- C. Any connection to the public utility grid must be inspected by the appropriate public utility.
- D. Solar energy systems shall be maintained in good working order.
- E. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
- F. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code (the "State Code") when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- G. If a small scale solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector mount and associated equipment by no later than 90 days after the end of the twelve-month period.
- H. Marking of equipment:
 - a. Solar emergency systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
 - b. For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
 - c. In the event any of the standards in this Subsection "H" for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the "State Code"), they shall be deemed to be guidelines only and the standards of the State Code shall apply.

350-119 Utility Scale Solar Energy Systems (USSES)s

(USSES)s shall be permitted in the AR District as an “electrical generating” use subject to special permit and site plan review by the Town Board. (USSES)s shall be subject, but not limited to, the following supplementary regulations in addition to the requirements of 350-117 of this Chapter:

- A. (USSES)s shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 7 feet. However, the Planning Board shall have the discretion to vary or eliminate this requirement where appropriate.
- B. (USSES)s and solar power plants shall have a maximum lot coverage of 75%.
- C. The manufacturers and installer’s identification and appropriate warning signage and emergency contact information shall be posted at the site and clearly visible.
- D. (USSES)s shall be inspected by a New York State licensed professional engineer prior to obtaining a certificate of operation. Each (USSES) shall be inspected annually, or at any time that the Town Building Inspector has determined that damage may have occurred, by an NYSPE and a copy of the inspection report shall be submitted to the Town Building Inspector.
- E. (USSES) buildings and accessory structures shall, to the extent reasonably possible, use materials, colors and textures that will blend the facility into the existing environment.
- F. Appropriate landscaping and/or screening materials may be required to help screen the solar power plant and accessory structures from major roads and neighboring residences. The average height of the solar panel arrays shall not exceed 12 feet measured from the base of the solar array rack to the top of the solar panel array rack. However, the Planning Board shall have the authority to increase the average height of the solar panel array rack up to 8 feet as necessary to accomplish the purposes they are intended to serve. Such determination shall be made with consideration of the subject property’s natural and proposed characteristics including, but not limited to, topography, existing and proposed vegetative buffers, and proximity to residential and/or commercial uses etc.
- G. Artificial lighting of (USSES) facilities shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- H. Setbacks: Any (USSES) shall adhere to the following setbacks measured to any solar dedicated structure.
 - a. From any property lot lines: A minimum of fifty (50) feet from any property line.
 - b. From buildings or structures not on the lot proposed for the solar energy system:
 - i. A minimum of two hundred and fifty (250) feet.
 - ii. A minimum of two hundred and fifty (250) feet from any dwelling.
 - c. From buildings or structures on the lot proposed for the solar system: A minimum of one hundred (100) feet from any building, structure or dwelling.
 - d. From public roads: A minimum of one hundred twenty (120) feet from any public road (measured from the center of the road).
 - e. From schools, public parks: A minimum of five hundred (500) feet from all property lot lines bordering a school or public park.
- I. (USSES) and solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
- J. On-site power lines shall be placed underground.
- K. All applications for (USSES)s shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with the removal

of the structure, which shall be reviewed and approved by the Town Board and its consultants.

- L. The following requirements shall be met for decommissioning:
1. (USSES)s and solar power plants which have not been in active and continuous service for a period of one year shall be removed at the owners' or operators' expense within six (6) months of the date of expiration of the one-year period.
 2. All above ground and below ground equipment, conduits, structures, fencing and foundations shall be removed from the site to a depth of at least three (3) feet below grade.
 3. The site shall be restored to as natural a condition as possible within six (6) months of the removal of all equipment, structures, and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and re-vegetation of restored soil areas with native seed mixes.
 4. Decommissioning costs shall be determined by an independent party during the application for the proposed solar energy system. The Planning Board shall, as a condition of approval, require the posting of a removal bond of the (USSES) and solar plant's equipment. The value of the bond shall be renewable annually increasing by 2.5% annually.

350-120 Penalties for Offenses

Violations of this section are subject to a maximum fine of \$250 per day, each day of violation is a separate offense.

350-121 Appeals

- A. If a person is found to be in violation of the provisions of this article, appeals may be made to the Zoning Board of Appeals in accordance with the established procedures and time limits of the Town of Barre Code and New York State Town Law.
- B. If a building permit for a solar energy device is denied based upon a failure to meet requirements of this law, the applicant may seek relief from the Zoning Board of Appeals in accordance with the established procedures and time limits of the Town of Barre Code and New York State Town Law.

350-122 Building Permit Fees for Solar Panels

The fees for all building permits required pursuant to this article shall be paid at the time of each building permit application pursuant to the Fee Schedule of the Town of Barre.

Section III; Town of Barre Schedule of Use Regulations

The Town of Barre Schedule of Use Regulations contained in the Town Code is hereby amended as follows:

1. The list of permitted uses is hereby amended to provide for "rooftop or building mounted solar systems", as permitted use in all zoning districts.

2. The list of permitted uses is hereby amended to provide for “free-standing or ground-mounted solar energy systems”, as permitted uses in all zoning districts subject to site plan approval by the Planning Board.
3. The list of residential uses is hereby amended to provide for free-standing or ground-mounted solar energy systems”, as permitted uses in all zoning districts.
4. The list of permitted uses is hereby amended to provide for (USSES)s, as a permitted use subject to a special use permit and site plan approval by the Town Board with recommendation of the Planning Board.
5. The list of permitted uses is hereby amended to provide for solar thermal systems, as permitted uses in all zoning districts.
6. District uses are hereby amended to add six notes at the end of the section reading as follows:

Note 1 – “Rooftop or building mounted solar systems shall be permitted in all zoning districts pursuant to a solar system building permit granted by the Town’s Code Enforcement Officer, in accordance with the provisions of Article XII of the Town of Barre Code.”

Note 2 – “Free-standing or ground mounted solar energy systems shall be permitted in all zoning districts subject to the issuance of a solar system building permit and site plan approval by the Planning Board pursuant to the provisions of Article XII of the Code.”

Note 3 – Special use permits for USSES are issued to developers or the land owner and are non-transferrable.

Note 4 – “(USSES)s shall be permitted only in the RA District subject to a solar system building permit and a special use permit and site plan approval by the Planning Board, pursuant to the provisions of Article XII of the Code.”

Note 5 – “Building integrated photovoltaic (BIPV) systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing this system approved by the Town’s Code Enforcement Officer in accordance with the provisions of Article XII of the Code.”

Note 6 – “Solar thermal systems are permitted in all zoning districts subject to the provisions of Article XII of the Code.”

Section IV: Supersession

This local law is hereby adopted pursuant to the provisions of RPTL ~487, ~10 of the New York State Municipal Home Rule Law and ~10 of the New York State Statute of Local Governments. It is the intent of the Town Board to supersede any provisions of the New York State Law to the extent that they may be inconsistent with the provisions of this Local Law.

Section V: Effective Date

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

350-122 Tax Exemption

The town hereby exercises its right to opt out of the tax exemption provisions of the Real Property Tax Law § 487, pursuant to the authority granted by Subdivision 8 of that law.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2019 of the ~~(County)(City)(Town)(Village)~~ of Barre was duly passed by the Town Board on August 14, 2019, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (repassed after disapproval) by the _____ on _____ 20____.~~
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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

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

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

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

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

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

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

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

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

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

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

Date: 8-22-19

(Seal)

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

STATE OF NEW YORK
COUNTY OF ORLEANS

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

Jane J. Leach
Signature
Town Attorney
Title

County
City of BARRE
Town
Village

Date: August 28, 2019

Local Law Filing

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

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

FILED
STATE RECORDS

JUN 08 2021

County City Town Village
(Select one)

of _____ Barre

DEPARTMENT OF STATE

Local Law No. 2 of the year 2021

A local law A local law amending the Town Code to Establish a New Article XII Entitled
(Insert Title)
"Solar Energy Systems and Facilities", and to Amend the Schedule of Use
Regulations to Provide for those Facilities.

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

County City Town Village
(Select one)

of _____ Barre as follows:

See attached pages.

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2021 of the (County)(City)(Town)(Village) of BARRE was duly passed by the TOWN BOARD on MAY 12 2021, in accordance with the applicable provisions of law.

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

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

3. (Final adoption by referendum.)

~~Thereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)~~

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

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

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

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

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

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

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

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

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

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

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

Date: 5-14-21

(Seal)

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

STATE OF NEW YORK
COUNTY OF ORLEANS

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

Lance J. Mark

Signature LANCE J. MARK

TOWN ATTORNEY

Title

Town of BARRE

Date: June 1, 2021

TOWN OF BARRE

PROPOSED LOCAL LAW 2 OF THE YEAR 2021

BE IT ENACTED by the Town Board of the Town of Barre as follows:

Section I: Title.

This Local Law shall be entitled as: “A Local Law Amending the Town Code to Establish a New Article XII Entitled ‘Solar Energy Systems and Facilities’, and to Amend the Schedule of Use Regulations to Provide for those Facilities”.

Section II: Amendments to Town Code Establishing Article XII

The Town of Barre Town Code is hereby amended to revise and restate Article XII entitled: “Solar Energy Systems and Facilities” as follows:

350-112 Purpose and Intent

Solar energy is a renewable and non-polluting energy resource that can prevent fossil fuel emissions and reduce a municipality’s energy load. Energy generated from solar energy systems can be used to offset energy demand on the grid where excess solar power is generated. The use of solar energy equipment for the purpose of providing electricity and energy for heating and/or cooling is a priority and is a necessary component of the Town of Barre’s current and long-term sustainability agenda. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this law is to facilitate the development and operation of renewable energy systems based on sunlight while minimizing adverse impacts on neighboring properties to protect the public health, safety and welfare

350-113 Definitions

As used in this law, the following terms shall have the meanings indicated, unless the context or subject matters require others.

Alternative Energy Systems – Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and which may be attached to or be separate from the principal structure.

Building-Integrated Photovoltaic (BIPV) Systems – A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or the façade and which does not alter the line of the roof.

Collective Solar – Solar installations owned collectively through subdivision homeowner associations, condominium associations, “adopt-a-solar panel” programs, or other similar collective arrangements.

Farm – For the purposes of this section an agriculture farm is one that has an average of \$10,000 in gross sales and has at least 7 acres of land used to produce livestock, or crops for the preceding two years.

Flush-Mounted Solar Panel – A photovoltaic panel or tile that is installed flush to the surface of a roof and which cannot be angled or raised.

Freestanding or Ground-Mounted Solar Energy System – A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure. Pole-mounted solar energy systems shall be considered freestanding or ground-mounted solar energy systems for purposes of this chapter.

Glare – As defined by NYSERDA in the model solar energy local law: The effect of reflection of light with intensity sufficient as determined in a commercially reasonable manor to cause annoyance, discomfort, or loss of visual performance and visibility in any material respects.

Net Metering – A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the public utility grid so that they only pay for their net electricity usage at the end of the month or year.

NYSPE – New York State Professional Engineer

Permit Granting Authority – The Town’s Code Enforcement Officer who is charged with granting permits for the operation of solar systems.

Photovoltaic (PVI) System – A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them.

Qualified Solar Installer – A person who has skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible photovoltaic installers maintained by the New York State Energy Research and Development Authority (NYSERDA), or who are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purposes of this definition. Persons who are not on NYSERDA’s list of eligible installers or NABCEP’s list of certified installers may be deemed to be qualified solar installers if the Town’s permit granting authority or such other Town Officer or employee as the Town Board designates determines such persons have had adequate training to determine the degree and extent of the hazard and the protective equipment and job planning necessary to perform the installation safely. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

Rooftop or Building Mounted Solar System – A solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Setback – The required minimum distance from the property line to the nearest part of the structure measured at the right angles to the property line within which a freestanding or ground-mounted solar energy system is installed.

Small-Scale Solar – Refers to solar photovoltaic systems or solar thermal that produce up to 25 Kilowatts (kW) of energy or solar thermal systems which serve the building to which it is attached or one associated on that tax parcel in accordance with section 350-116 and section 350-117 of this law.

Solar Access – Space open to the sun and clear of overhangs or shade, including the orientation of streets and lots to the sun so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Collector – A solar photovoltaic cell, panel or array, or solar hot air or water collector device which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

Solar Easement – An easement recorded pursuant to New York Real Property Law §335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar collector.

Solar Energy Equipment System – Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form or energy, stored protected from unnecessary dissipation and distributed. Solar systems include solar thermal and photovoltaic. A solar energy system does not include any solar energy system of 32 square foot in size or less.

(USSES) Utility Scale Solar Energy System (USSES)– Energy generation facility or area of land principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies with the primary purpose of wholesale or retail sales of electricity.

Solar Panel – A device for the direct conversion of solar energy into electricity.

Solar Storage Battery – A device that stores energy from the sun and makes it available in an electrical form.

Solar Thermal Systems – Solar energy systems that directly heat water or other liquid using sunlight. The heated liquid is used for such purposes as space heating and cooling, domestic hot water and heating pool water.

350-114 Applicability

- A. The requirements of this law shall apply to all solar energy systems and equipment installations modified or installed after the effective date of this Local Law.
- B. Solar energy system installations for which a valid building permit has been issued or, if no building permit is presently required, for which installation has commenced before the effective date of this local law, shall not be required to meet the requirements of this local law.
- C. All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Building Code and the Barre Town Code.
- D. Solar collectors, unless part of a (USSES) or solar power plant, shall be permitted only to provide power for use by owners, lessee, tenants, residents, or other occupants of the premises on which they are erected, but nothing contained in this provision shall be construed to prohibit collective solar installations or the sale of excess power through a net-billing or net-metering arrangement in accordance with New York Public Service Law §66-j or similar state or federal statute.
- E. Notwithstanding any other provision of this Local Law, any solar energy systems installed on a farm and designed to serve only that farm, shall only require a building permit for systems under 50 kW.

Agricultural farm-installed solar energy systems of 50 kW or more shall require a building permit and site plan review.

- F. This section shall not apply to any premises or property owned or controlled by the Town of Barre which shall be exempt from these solar zoning requirements.

350-115 Permitting and Approvals Required

- A. Rooftop or building mounted solar systems shall be permitted in all zoning districts pursuant to a solar system building permit granted by the Town's Code Enforcement Officer and subject to the requirements of this article.
- B. Freestanding or ground mounted small scale solar energy systems for residential use in all districts are subject to the issuance of a solar system building permit and for systems in excess of 25 kW, a site plan approval by the Planning Board is required.
- C. (USSES)s shall be permitted only in the AR District subject to a solar system building permit and a special use permit and a site plan approval by the Town Board with a Planning Board recommendation. Building-Integrated photovoltaic (BIPV) systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing the system approved by the Town's Code Enforcement Officer.
- D. Solar thermal systems are permitted in all zoning districts, subject to the conditions set forth hereinafter.

350-116 Requirements for Rooftop, Building Mounted and Wall Mounted Solar Collectors

- A. Rooftop and building-mounted solar collectors may exceed the maximum height prescribed for principal or accessory uses for the applicable zoning district, but only extend by 3 feet higher than the finished roof to which it is mounted. The solar array must be set back a minimum of 18 inches from all edges of the rooftop and the top ridge line, to allow for firefighter access to the rooftop area.
- B. Fire safety and emergency access – All such installations shall comply with the New York State Uniform Fire Prevention and Building Code (the "State Code") to insure firefighter and other emergency responder safety and access.

350-117 Requirements for Small Scale Solar Freestanding and Ground-Mounted Solar Collectors

- A. Freestanding and ground-mounted solar collections shall be subject to the following conditions:
 - 1. In all Districts, a lot must have a minimum size of 40,000 square feet for a freestanding or ground-mounted solar collector to be permitted.
 - 2. The location of a ground-mounted or freestanding solar collector shall comply with the setback requirements for accessory buildings, as set forth in the Barre Town Code.
 - 3. No ground-mounted or freestanding solar collectors shall be permitted in the front yard.
 - 4. The height of the solar collector and any mount shall not exceed 20 feet when oriented at a maximum tilt.
 - 5. Ground-mounted and freestanding solar collectors shall be screened as much as possible and practicable from adjoining lots and street rights-of-way through the use of architectural features, earth berms, landscaping, fencing or other screening which will harmonize with the character of the property and surrounding area. The proposed screening shall not, however, interfere with the normal operation of the solar collectors.

6. Solar energy equipment shall be located in a manner to reasonably minimize blockage of sunlight for surrounding properties and shading of property to the north while still providing adequate solar access for collectors.
7. Solar energy equipment shall not be sited within any required buffer areas.
8. The total surface area of all ground-mounted and freestanding solar collectors on a lot shall not exceed the area of the ground covered by the building structure of the largest building on the lot measured from the exterior walls, excluding patios, decks and balconies, screeded and open porches and attached garages. Installations on non-residential properties exceeding the size may be approved by the Town Board, with recommendation of the Planning Board, subject to site plan review pursuant to Article X of the Barre Town Code. subject to site plan review pursuant to Article X of the Barre Town Code.
9. The area beneath ground-mounted and freestanding solar collectors shall be included in calculating whether the lot meets maximum permitted lot building coverage and lot surface coverage requirements for the applicable district, notwithstanding that the collectors are not "buildings".
10. The installation of ground-mounted and freestanding solar collectors shall be considered a development or development activity.
11. Solar thermal systems shall comply with the following conditions:
 - a. Building permits are required for the installation of solar thermal systems.
 - b. Ground-mounted and freestanding solar thermal systems shall be subject to the same requirements set forth in subsection 350-117(A) above for ground-mounted and freestanding solar collectors.
12. All solar energy systems and equipment shall be permitted only if they are determined by the Town Code Enforcement Officer not to present any unreasonable safety risks including, but not limited to, the following:
 - a. Weight load.
 - b. Wind resistance.
 - c. Ingress or egress in the event of fire or another emergency.
13. Prevention of glare.
 - a. All solar collectors and related equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties.

350-118 Safety

- A. All solar collector installations must be performed by a qualified solar installer.
- B. Prior to operation, electrical connections must be inspected by the Town's Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
- C. Any connection to the public utility grid must be inspected by the appropriate public utility.
- D. Solar energy systems shall be maintained in good working order.
- E. Rooftop and building-mounted solar collectors shall meet New York's Uniform Fire Prevention and Building Code standards.
- F. If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Uniform Fire Prevention and Building Code (the "State Code") when in use and when no longer used shall be disposed of in accordance with the laws and regulations of the Town and other applicable laws and regulations.
- G. If a small-scale solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector mount and associated equipment by no later than 90 days after the end of the twelve-month period.

H. Marking of equipment:

- a. Solar emergency systems and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system. Materials used for marking shall be weather resistant. For residential applications, the marking may be placed within the main service disconnect. If the main service disconnect is operable with the service panel closed, then the marking should be placed on the outside cover.
- b. For commercial application, the marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the lever is operated.
- c. In the event any of the standards in this Subsection "H" for markings are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the "State Code"), they shall be deemed to be guidelines only and the standards of the State Code shall apply.

350-119 Utility Scale Solar Energy Systems (USSES)s

(USSES)s shall be permitted in the AR District as an "electrical generating" use subject to special permit and site plan review by the Town Board. (USSES)s shall be subject, but not limited to, the following supplementary regulations in addition to the requirements of 350-117 of this Chapter:

- A. (USSES)s shall be enclosed by perimeter fencing to restrict unauthorized access at a height of 7 feet. However, the Town Board shall have the discretion to vary or eliminate this requirement where appropriate.
- B. (USSES)s and solar power plants shall have a maximum lot coverage of 75%.
- C. The manufacturers and installer's identification and appropriate warning signage and emergency contact information shall be posted at the site and clearly visible.
- D. (USSES)s shall be inspected by a New York State licensed professional engineer prior to obtaining a certificate of operation. Each (USSES) shall be inspected annually, or at any time that the Town Building Inspector has determined that damage may have occurred, by an NYSPE and a copy of the inspection report shall be submitted to the Town Building Inspector.
- E. (USSES) buildings and accessory structures shall, to the extent reasonably possible, use materials, colors and textures that will blend the facility into the existing environment.
- F. Appropriate landscaping and/or screening materials may be required to help screen the (USSES) solar. The average height of the solar panel arrays shall not exceed 12 feet measured from the base of the solar array rack to the top of the solar panel array rack. However, the Town Board shall have the authority to increase the average height of the solar panel array rack up to an additional 8 feet as necessary to accomplish the purposes they are intended to serve. Such determination shall be made with consideration of the subject property's natural and vegetative buffers, and proximity to residential and/or commercial uses etc.
- G. Artificial lighting of (USSES) facilities shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- H. Setbacks: Any (USSES) shall adhere to the following setbacks measured to any solar dedicated structure.
 - a. From any property lot lines: A minimum of fifty (50) feet from any property line.
 - b. From buildings or structures not on the lot proposed for the solar energy system:
 - i. A minimum of two hundred and fifty (250) feet.
 - ii. A minimum of two hundred and fifty (250) feet setback from any non-participating dwellings and other inhabited buildings.

- c. From buildings or structures on the lot proposed for the solar system: A minimum of one hundred (100) feet from any building, structure or dwelling.
 - d. From public roads: A minimum of one hundred twenty (120) feet from any public road (measured from the center of the road).
 - e. From schools, public parks: A minimum of five hundred (500) feet from all property lot lines bordering a school or public park.
 - f. Where there are two or more contiguous parcels that have a (USSES) lease agreement, setback requirements shall not apply for contiguous property lines between such parcels.
- I. (USSES) and solar power plant panels and equipment shall be surfaced, designed and sited so as not to reflect glare onto adjacent properties and roadways.
 - J. On-site power lines shall be placed underground.
 - K. All applications for (USSES)s shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with the removal of the structure, which shall be reviewed and approved by the Town Board and its consultants.
 - L. The following requirements shall be met for decommissioning:
 1. (USSES)s which have been inactive for a period of one year shall be removed at the owners' or operators' expense within six (6) months of the date of expiration of the one-year period. All above ground and below ground equipment, conduits, structures, fencing and foundations shall be removed from the site to a depth of at least three (3) feet below grade.
 2. All above ground and below ground equipment, conduits, structures, fencing and foundations shall be removed from the site to a depth of at least three (3) feet below grade.
 3. The site shall be restored to as natural a condition as possible within six (6) months of the removal of all equipment, structures, and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and re-vegetation of restored soil areas with native seed mixes.
 4. Decommissioning costs shall be determined by an independent professional engineer during the application for the (USSES). The Town Board shall, as a condition of approval, require the posting of a removal bond of the (USSES). For the life of the utility-scale solar energy system, the applicant or its successors or assigns, shall continuously maintain a bond or other appropriate form of financial security that is acceptable to the Town and payable to the Town. The bond shall be maintained during the life of the project at 125% of the decommissioning cost. The value of the bond shall be renewed annually and increasing by 2.5% for inflation. The bond shall be reviewed and re-determined every five (5) years with a minimum value of 125% of the estimated decommissioning cost.
 5. All expenses or costs of establishing or maintaining financial assurance shall be borne solely by the applicant, or its successors or assigns. The Applicant shall provide proof of compliance with the bond requirement upon request of the Town. The Decommissioning Plan shall be reduced to a Decommissioning Agreement between the Town and applicant/operator.

350-120 Penalties for Offenses

Violations of this section are subject to a maximum fine of \$250 per day, each day of violation is a separate offense.

350-121 Appeals

- A. If a person is found to be in violation of the provisions of this article, appeals may be made to the Zoning Board of Appeals in accordance with the established procedures and time limits of the Town of Barre Code and New York State Town Law.
- B. If a building permit for a solar energy device is denied based upon a failure to meet requirements of this law, the applicant may seek relief from the Zoning Board of Appeals in accordance with the established procedures and time limits of the Town of Barre Code and New York State Town Law.

350-122 Building Permit Fees for Solar Panels

The fees for all building permits required pursuant to this article shall be paid at the time of each building permit application pursuant to the Fee Schedule of the Town of Barre.

Section III; Town of Barre Schedule of Use Regulations

The Town of Barre Schedule of Use Regulations contained in the Town Code is hereby amended as follows:

- 1. The list of permitted uses is hereby amended to provide for “rooftop or building mounted solar systems”, as permitted use in all zoning districts.
- 2. The list of permitted uses is hereby amended to provide for “small scale solar free-standing or ground-mounted solar energy systems”, as permitted uses in all zoning districts subject to site plan approval by the Planning Board.
- 3. The list of residential uses is hereby amended to provide for “small scale solar free-standing or ground-mounted solar energy systems”, as permitted uses in all zoning districts.
- 4. The list of permitted uses is hereby amended to provide for (USSES)s, as a permitted use subject to a special use permit and site plan approval by the Town Board with recommendation of the Planning Board.
- 5. The list of permitted uses is hereby amended to provide for solar thermal systems, as permitted uses in all zoning districts.
- 6. District uses are hereby amended to add six notes at the end of the section reading as follows:

Note 1 – “Rooftop or building mounted solar systems shall be permitted in all zoning districts pursuant to a solar system building permit granted by the Town’s Code Enforcement Officer, in accordance with the provisions of Article XII of the Town of Barre Code.”

Note 2 – “Free-standing or ground mounted solar energy systems shall be permitted in all zoning districts subject to the issuance of a solar system building permit and site plan approval by the Planning Board pursuant to the provisions of Article XII of the Code.”

Note 3 – Special use permits for USSES are issued to developers or the land owner and are non-transferrable.

Note 4 – “(USSES)s shall be permitted only in an A/R District subject to a solar system building permit and a Special Use Permit and Site Plan approval by the Town Board with recommendation of the Planning Board, pursuant to the provisions of “Article XII of the Code.”

Note 5 – “Building integrated photovoltaic (BIPV) systems are permitted in all zoning districts provided they are shown on the plans submitted for the building permit application for the building containing this system approved by the Town’s Code Enforcement Officer in accordance with the provisions of Article XII of the Code.”

Note 6 – “Solar thermal systems are permitted in all zoning districts subject to the provisions of Article XII of the Code.”

Section IV: Supersession

This local law is hereby adopted pursuant to the provisions of RPTL ~487, ~10 of the New York State Municipal Home Rule Law and ~10 of the New York State Statute of Local Governments. It is the intent of the Town Board to supersede any provisions of the New York State Law to the extent that they may be inconsistent with the provisions of this Local Law.

Section V: Effective Date

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

350-122 Tax Exemption

The town hereby exercises its right to opt out of the tax exemption provisions of the Real Property Tax Law § 487, pursuant to the authority granted by Subdivision 8 of that law.

350-123 Host Agreement

The applicant for a (USSES) shall enter into a Host Community Agreement with the Town. The applicant or its successors shall be required to pay the Town a Host Community Fee annually to compensate the Town for expenses or impacts on the additional agreements with the applicant as may be necessary to protect the Towns and its citizens interest (E.G., separate road use and maintenance agreement or decommissioning agreement). The Host Community Fee shall be in addition to any payment in lieu of taxes which may be authorized to be collected by the Town pursuant to Section 487 of the Real Property Tax Law of the State of New York. The amount of the Host Community Fee will be determined by the Town Board from time to time but not more frequently than annually.

350-124 Engineering and Legal Costs

The Town shall require any applicant to enter into as Escrow Agreement to pay the engineering environmental review and legal costs of any application review, including but not limited to the review required by SEQRA. All such fees shall be negotiated and determined prior to the approval and issuance of a Special Use Permit for an (USSES).

Chapter 350. ZONING

[HISTORY: Adopted by the Town Board of the Town of Barre 6-10-1997; printed as revised in 2002. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Planning Board alternate members — See Ch. 59, Art. I.

Numbering of buildings — See Ch. 125.

Unsafe buildings; property nuisances — See Ch. 130.

Uniform construction codes — See Ch. 144.

Farming — See Ch. 168.

Flood damage prevention — See Ch. 175.

Outdoor heating devices — See Ch. 232.

Water — See Ch. 328.

Article I. Enactment and Intent

§ 350-1. Title.

The title of this chapter is the "Town of Barre Zoning Ordinance, Orleans County, New York," and shall include this text and Zoning Map.

Editor's Note: The Zoning Map can be viewed on the Town's Web site: <http://townofbarreny.com/>; however, the official copy of the Zoning Map is on file in the office of the Town Clerk.

§ 350-2. Purpose.

This chapter is adopted, pursuant to the Town Law of the State of New York, to promote and protect the public health, safety and general welfare and in furtherance of the following related and more specific purposes:

- A. To protect the open, rural and natural character of the land.
- B. To preserve the Town's natural resources and habitats.
- C. To guide and regulate the orderly growth, development and redevelopment of the Town of Barre in accordance with a well-considered plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.

§ 350-3. Conflict with other provisions.

Whenever the requirements of this chapter are in conflict with the requirements of any other lawfully adopted rules, regulations, codes, ordinances or local laws, the most restrictive of such rules, regulations, codes, or ordinances or those imposing the higher standards shall govern.

§ 350-4. Consistency with Comprehensive Plan.

The provisions and regulations of this chapter and interpretations thereof shall be made in accordance with the objectives of the Town's Comprehensive Plan.

§ 350-5. Amendments.

- A. Procedure. The Town Board may from time to time on its own motion, on petition or on recommendation of the Planning Board, and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this chapter.
- B. Filing of petition. A petition to amend, change or supplement the text of this chapter or any zoning district as designated on the Zoning Map established herein
Editor's Note: The Zoning Map can be viewed on the Town's Web site: <http://townofbarreny.com/>; however, the official copy of the Zoning Map is on file in the office of the Town Clerk. shall be filed with the Town Clerk and accompanied by the appropriate fees. The Clerk shall transmit the documentation to the Town Board. A petition for a change to the Zoning Map shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change. In addition, every petition for a change to the Official Zoning Map shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in state environmental quality review (SEQR) regulations.
- C. Referral to Planning Board. Each proposed amendment, except those initiated by the Planning Board, shall be referred to the Planning Board for an advisory report. In reporting, the Planning Board shall fully state its reasons for recommending or opposing the adoption of such proposed amendment. The Planning Board may condition its approval, as may be appropriate, and shall state whether such amendment is in harmony with the Town's plan for land use. The Planning Board shall state its position relative to proposed zoning amendments, in writing, within 45 days of the receipt of all pertinent data from the Town Board. Absence of a reply from the Planning Board within the forty-five-day period shall indicate that the Board is in favor of the amendment.
- D. Public hearing; notice; referrals; recording of actions. Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices, referrals to the County Planning Board, and proper recording of zoning actions taken by the Town Board shall apply to all amendments to this chapter.
- E. Disposition final; rehearing on petition. The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefor, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one.

§ 350-6. Repealer.

The text of the Barre Zoning Ordinance and the Zoning Map of the Town of Barre, Orleans County, New York, enacted by the Town Board of the Town of Barre, and as the same from time to time

have been amended, are hereby repealed and amended in their entirety as set forth below, superseding all previous enactments and amendments, and from their taking effect, all such previous enactments and amendments thereto shall be repealed.

§ 350-7. Enforcement actions.

- A. If the Code Enforcement Officer discovers a project commencing without the required permits, he shall undertake enforcement actions as authorized by this chapter and other provisions of New York State law.
- B. The Town may maintain an action for a temporary restraining order, temporary injunction, or injunction to restrain, correct, or abate any violation of this chapter or any failure to comply with any of the provisions of this chapter.

§ 350-8. Penalties for offenses.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 350-9. Fees.

- A. Each application for a permit provided for by this chapter shall be accompanied by a fee, payable in cash or other form of security approved by the Town Attorney, according to the fee structure in effect at the time of application. Fees shall be established or amended as deemed necessary from time to time by resolution of the Town Board.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. A fee schedule shall be posted at the Town Clerk's office.

Article II. Terminology

§ 350-10. Word usage; definitions of administrative agencies.

For the purpose of this chapter, certain words and terms used herein shall be defined as follows:

- A. Word usage.
 - (1) All words used in the present tense include the future tense.
 - (2) All words in the plural number include the singular number, and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.

- (3) The word "person" includes an association, partnership or corporation.
- (4) Unless otherwise specified, all distances shall be measured horizontally along the ground.
- (5) The word "building" includes the word "structure."
- (6) "Lot" includes the words "plot," "parcel," "tract" or "site."
- (7) The word "premises" includes a lot and all buildings or structures thereon.
- (8) To "erect," to "construct" and to "build" a building or structure each have the same meaning and also include to "excavate" for a building and to "relocate" a building by moving it from one location to another.
- (9) "Used" shall be deemed also to include "designated, intended or arranged to be used or occupied."
- (10) "Shall" is mandatory and not discretionary; "may" is permissive.

B. Administrative agencies defined:

BOARD OF APPEALS

The Zoning Board of Appeals of the Town of Barre.

CODE ENFORCEMENT OFFICER

The official or officials designated by the Town Board of the Town of Barre to enforce the provisions of this chapter.

COUNTY PLANNING BOARD

The Planning Board of the County of Orleans.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The New York State Department of Environmental Conservation.

DEPARTMENT OF HEALTH

The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

PLANNING BOARD

The Planning Board of the Town of Barre.

TOWN BOARD

The Town Board of the Town of Barre.

§ 350-11. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING OR STRUCTURE

A. A detached building or structure which:

- (1) Is customarily incidental and subordinate to, and serves a principal building;
- (2) Is subordinate in area, extent or purpose to the principal building served;
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal building use; and

(4) Is located on the same parcel as the principal building.

B. This definition shall include private garages.

ACCESSORY USE

A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

ADULT BOOKSTORE

Any business enterprise having as a substantial portion of its stock-in-trade books, magazines, pamphlets, pictures, drawings, photographs, and audio/visual material of any kind, which are characterized by their emphasis on the description or depiction of areas of the anatomy customarily associated with sexual activities; or any business enterprise having a substantial area of its establishment devoted to the sale, rental and display of such material.

ADULT ENTERTAINMENT ESTABLISHMENT

Any business enterprise having as a substantial portion of its activity the presentation of live shows, motion-picture films or sound recordings, or similar visual or audio material, which are characterized by their emphasis on the description or depiction of areas of the anatomy customarily associated with sexual activities; or any business enterprise serving food and beer, wine or liquor whose entertainers or waiters and waitresses appear in a state that displays areas of the anatomy customarily associated with sexual activities; or any business enterprise that offers services requiring the client or customer to display said anatomical areas, except medical and health services establishments.

AGRICULTURAL PRODUCT DISTRIBUTION CENTER

A facility in which agricultural products, which are not produced on the premises, are graded, sorted, and/or packaged for the purpose of distribution by truck, rail, or other means.

AGRICULTURAL PRODUCT PROCESSING FACILITY

A facility in which agricultural products, which are not produced on the premises, are altered for the purpose of canning, freezing, or other packaging, or are converted or incorporated into other products.

AGRICULTURE (FARMING)

The use of land for agricultural production purposes, including, but not limited to, tilling of the soil, dairying, pasturage, animal and poultry husbandry, apiculture, arboriculture, horticulture, floriculture, viticulture, and accessory uses for packing or storing of products, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural production activities.

AIRPORT

Any area of land designed for the operation of general aviation aircraft, including hangars for storage and servicing, taxiways, landing strips and accessory uses.

AIRSTRIP, PRIVATE

An airport, as defined above, used solely for the benefit of the landowner and for emergency landing when necessary.

ALTERATIONS

As applied to a building or structure:

- A. The change or rearrangement in the supporting members of a building or structure, such as bearing walls, columns, beams or girders or in the exit facilities;
- B. An enlargement of a building or structure, whether by extending on a side or by increasing in height;

- C. The moving from one location or position to another; and
- D. Any alteration whereby a structure is adapted to another or different use, including any separation into rooms or spaces by the installation of nonbearing partitions.

ALTERNATIVE ENERGY SYSTEMS

Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure. Current examples include windmills, solar collectors and solar greenhouses, heat pumps, or other related devices. For the purposes of this chapter, this definition shall apply to individual residences and businesses. Commercial generating plants are excluded.

ANIMAL HOSPITAL

A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation and/or recuperation of such animals. It may also include boarding that is incidental to the primary activity.

ANTENNA

A structure or mount supporting a system of wires, rods, discs, dish, horns, or similar devices used for the transmission and/or reception of electromagnetic waves.

APARTMENT

A dwelling unit that is intended to be leased or rented. This term shall not be deemed to include a motel, hotel, boarding house or travel trailer.

APARTMENT BUILDING

A building arranged, intended or designed to provide three or more dwelling units independent of each other, and which may have common hallways and/or entrances.

AUTOMOBILE SERVICE STATION or FILLING STATION or MOTOR VEHICLE SERVICE STATION

A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, or where minor repair service and vehicle state inspections may be rendered.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

AUTOMOBILE WRECKING

The dismantling or disassembling of used motor vehicles, mobile homes or manufactured housing; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BASEMENT

That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of grounds adjoining the building. (See also "cellar.")

BED-AND-BREAKFAST

A single-family dwelling where overnight lodging, with or without the service of meals, is offered to transient guests for compensation. Such use shall be clearly incidental and secondary to the principal use of the dwelling. This term includes hostels and tourist homes establishments but does not include hotels, tourist courts, motor lodges, tourist cabins or similar terms.

BUFFER AREA

A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, designed to provide a physical screen to limit visibility between uses and reduce the

escape and/or intrusion of litter, fumes, dust, noise, or other noxious or objectionable elements.

BUILDING

Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals, or property.

BUILDING CODE

The New York State Uniform Fire Prevention and Building Code. *Editor's Note: See Ch. 144, Construction Codes, Uniform, Art. I, Administration and Enforcement.*

BUILDING COVERAGE, PERCENT OF

The percent of building coverage of any lot shall be equal to 100 times the ratio of the gross horizontal area of all principal and accessory buildings that have roofs on them (including covered breezeways, covered porches, covered cantilevered structures, etc.) measured from the exterior faces of the exterior walls, but shall not include any structure (such as a patio or deck) that does not have a roof, divided by the horizontal area of the lot.

BUILDING GROUP

Any building, such as a store group, which is divided into separate parts by one or more unpierced walls, extending from the ground up.

BUILDING HEIGHT

The vertical distance measured, in the case of a building with a flat roof, from the curb level to the level of the highest point of the roof beams, and in the case of a building with a pitched roof, from the curb level halfway between the top of the plate and the ridge, but not including chimneys, spires, mechanical penthouses, towers, tanks, and similar projections.

BUILDING LINE

A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch. The vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two feet in width. All yard and setback requirements are measured to the building lines.

BUILDING PERMIT

A written permit issued by the Code Enforcement Officer documenting compliance with the Building Code.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

BUSINESS

Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type. For the purpose of this chapter, "business" shall have the same meaning as commercial, and reference to commercial districts or zones shall be interpreted as referring to business districts.

CAMPING GROUND

A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding mobile homes or manufactured housing designed for year-round occupancy or as a place of residence.

CARPORT

A roofed structure without enclosing walls, used for the storage of one or more motor vehicles.

CAR WASH

A structure or building designed for the washing, waxing, or similar treatment of automotive vehicles as its principal function. A filling station having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the filling station.

CELLAR

That space of a building that is partly or wholly below grade level, which has more than two-thirds of its height, measured from floor to ceiling, below the average established curb level or finished grade of grounds adjoining the building.

CERTIFICATE OF COMPLIANCE

A certificate issued by the Code Enforcement Officer upon completion of the change in use of an existing building or upon the completion of a project requiring site plan approval. Said certificate shall acknowledge compliance with all requirements of the Town's Code, ordinances, local laws, variances and special permits in existence as of the date of the issuance of the certificate of compliance.

CERTIFICATE OF OCCUPANCY

A certificate issued by the Code Enforcement Officer upon completion of construction or alteration of a building. Said certificate shall acknowledge compliance with all of the requirements of the Building Code.

CHURCH

Any structure used for worship or religious instruction, including social and administrative rooms accessory thereto.

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street right-of-way lines.

CLUB

Any organization catering to members and their guests, or a building or premises used for recreational, general, social, or athletic purposes not open to the general public. Clubs shall not be conducted primarily for gain, and vending stands, merchandising, or commercial activities shall not be conducted except as required for the membership and purposes of such club. For the purpose of this chapter, this term shall include religious organizations; lodges; fraternal organizations; mutual benefit societies; snowmobiling, archery or hunting clubs; and other similar organizations.

CLUSTER DEVELOPMENT

A development of residential lots, some of which may contain less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

CODE ENFORCEMENT OFFICER

The official designated to administer and enforce this chapter by granting or denying development permits in accordance with its provisions.

COMMON AREA

Space reserved for use by any and all residents of a housing development, including, but not limited to, halls, stairways and landings in apartment houses.

COMMUNICATION TOWER

See "telecommunications facility."

CONDOMINIUM

An ownership arrangement in which the interior of a housing unit is individually owned, while the exterior, including land and facilities (common elements), is owned in common by all homeowners in the development. The owner has title to the interior individual dwelling and a shared interest in the common elements.

CONFERENCE/RESORT COMPLEX

Grounds or facilities used or designed for use by the public or for groups for meetings, conferences or recreational purposes. This definition shall not include membership clubs or public parks and playgrounds, as defined under "public and semipublic uses."

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

DAY-CARE CENTER

A place other than an occupied residence which provides day care of children; or an occupied residence which provides group care for seven or more children away from their own homes.

DAY CARE, CHILD

Care provided for three or more children away from their own home for more than three hours but less than 24 hours per day per child, which care is provided with or without compensation or payment.

DAY CARE, HOME (FAMILY)

Day care of not more than six children provided in a family home.

DEVELOPMENT

Any change made to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DRIVE-IN BUSINESS

A business providing service or delivery of goods to persons in a vehicle, the vehicle being driven to a position designed to provide that service or goods from inside a building. This term shall include drive-in outdoor theaters, drive-in banking, drive-in photo processing, fast food establishments, auto washing facilities, refreshment stands, and similar uses. This term shall not include retail fuel outlets or filling stations.

DRIVEWAY

A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a driveway.

DWELLING

Any building or portion thereof designed or used exclusively as a residence or sleeping place for one or more persons. Structures which do not have permanent or approved sanitary facilities shall not be considered a residential dwelling.

A. SINGLE-FAMILY

— A detached residential dwelling designed for and occupied by one family only.

B. TWO-FAMILY

— A detached residential building containing two dwelling units, each of which contains no more than three bedrooms and which is designed and used for occupancy by two families living independently of each other as housekeeping units. A "duplex" is a two-family dwelling which is designed with a common wall. This definition shall not include buildings designed for occupancy by two families, in which one or more of the dwelling units contains more than four bedrooms.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. MULTIPLE-FAMILY

— A residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided. This definition shall include buildings designed for two-family occupancy, in which one or more of the dwelling units contains four or more bedrooms.

D. SEASONAL DWELLING

— A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including hunting cabins, vacation cottages, summer cottages, and vacation lodges. This definition does not include recreational vehicles, travel trailers, or other vehicles.

DWELLING UNIT

One room or rooms connected together for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities, designed for occupancy by one family.

EASEMENT

A specified (limited) use of private land for a public or quasi-public purpose.

ENVIRONMENTAL ASSESSMENT FORM (EAF)

The form required by Town boards or agencies to assess the potential environmental impacts of a proposed action and to determine the environmental significance of a proposal.

ENVIRONMENTAL IMPACT STATEMENT

A written document, prepared in accordance with State Environmental Quality Review Act *Editor's Note: See Environmental Conservation Law § 8-0101 et seq.* (SEQR) regulations, which documents the potential environmental impacts of a proposed action and alternative actions.

ESSENTIAL SERVICES AND UTILITIES

Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities, but shall not include telecommunications facilities as defined herein.

EXCAVATION (QUARRY, SAND PIT, GRAVEL PIT)

A lot or land or part thereof used for the purposes of extracting stone, sand, or gravel for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

FAMILY

One or more persons, usually but not necessarily related by blood, marriage or adoption, living together as a single, not-for-profit housekeeping unit.

FARM

Any parcel used for agriculture as defined herein. It includes necessary farm structures within the prescribed limitations and the storage of equipment used. It excludes riding academies and livery or boarding stables and kennels.

FARM ANIMAL

This term shall include horses, cows, goats, sheep, pigs, rabbits, fowls, and other similar animals.

FARM BUILDING

Any building used for the housing of agricultural equipment, produce, livestock or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operating of the farm as defined by this article.

FARM LABOR CAMP

Any structure or combination of structures, building or buildings in which people are housed on a farmer's own land who are employed in the individual farmer's personal farming operation, on that farmer's land or land that he has under his control by a valid and existing lease.

FARM MARKET

Retail outlet consisting of permanent structure(s) for the display and sale of agricultural and nursery products primarily grown by the operator.

FENCE

A structure of wood, masonry, wire mesh or other material, which prohibits or inhibits unrestricted travel or view between properties or portions of properties or between the street or public right-of-way and a property.

FLAG LOT

A type of lot (commonly flag-shaped in configuration) in which street frontage is provided by a strip of land which is narrow in relation to the remainder of the lot and which extends from the main body of the lot to the street. A lot which does not physically front on or abut a street, but which has access to a street by means of an easement over other property, shall be deemed to be included in this definition. The portion of the lot that provides access to the interior portion of the lot shall not be less than 30 feet in width, shall not be considered buildable and shall not be used in the calculation of the minimum lot area requirements for the zone district. The interior portion of the lot shall meet the minimum lot area requirements for the zone district.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

A. FLAG LOT, ACCESS PORTION

— The panhandle portion of a flag lot having at least 30 feet in lot width and which provides an access corridor between a public road, street or highway right-of-way to the interior portion of a flag lot.

B. FLAG LOT, INTERIOR PORTION

— That portion of a flag lot having sufficient lot area, width and depth to meet the minimum requirements of the zone district, and which excludes the access portion of the lot.

FLOOD HAZARD DISTRICT

Refer to Chapter 175, Flood Damage Prevention, of the Code of the Town of Barre, as authorized by the New York State Constitution, Article IX, Section 2, and the Environmental Conservation Law.

FLOOR AREA

For the purposes of applying the requirements for off-street parking and loading, "floor area," in the case of offices, merchandising or service types of uses, shall mean the floor area used or intended to be used by tenants or for service to the public as customers, patron, clients or patients, including areas occupied by fixtures and equipment used for display or sales of merchandise. It shall not include areas used principally for nonpublic purposes, such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incidental to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting rooms or alteration rooms.

A. FLOOR AREA, GROSS

— The sum of the gross horizontal areas of several floors of a building or buildings,

measured from the inside faces of exterior walls or from the inside faces of exterior walls or from the center line of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, gross floor area shall not include areas used principally for nonpublic purposes, such as storage, rest rooms, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

B. FLOOR AREA, HABITABLE

— The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. A floor used only for storage purposes is not a "habitable floor." All dimensions shall be measured from the interior faces of exterior walls or from the center line of the base of walls separating two dwelling units.

FRONTAGE

All of the property abutting one side of a road, street, or thoroughfare, measured along the road, street or thoroughfare line.

GARAGE, PRIVATE

An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit. A garage cannot serve as the principal use on any lot.

GARAGE, PUBLIC

Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, recreational vehicles, boats or other tangible personal property.

HOME OCCUPATION

A. Any occupation or profession customarily conducted entirely within a dwelling or a building accessory to the dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. A home occupation shall not be interpreted to include the following: commercial stables and kennels, restaurants, musical and dancing instruction to groups exceeding four pupils, convalescent homes, mortuary establishments, garages or shops for the repair of motor vehicles.

B. For the purpose of this chapter, a home occupation shall not include:

- (1) Occasional sales of goods, such as yard sales, tupperware parties, and the like, provided that such sales do not occur on more than 10 days during a single calendar year; or
- (2) A home office for a business that is primarily conducted outside of the home, provided that no clients or customers visit the office on a regular basis.

HOUSEHOLDER

An individual who resides in a dwelling unit and who owns, rents or otherwise has legal possession of such unit.

JUNKYARD

A lot, land or structure or part thereof used for the collection, storage, disassembly, packing, sorting, salvage, buying, selling or exchange of wastepaper, rags, scrap, or discarded materials or machinery, or parts of any sort. More than two abandoned, unregistered, disabled, dismantled, or partly dismantled vehicles, or pieces of equipment, allowed to remain unhoused on a premises for a period of more than 30 days shall constitute a junkyard. Also, the unhoused storage, sale, or abandonment of wastepaper, rags, scrap metal, discarded materials, or the collecting, dismantling, storage, salvaging or abandonment of machinery,

appliances or vehicles not in operating condition shall constitute a junkyard. Automobile junkyards as defined in General Municipal Law § 136 shall be included within this definition.

KENNEL

Any lot or premises on which six or more domestic animals more than six months of age are housed, groomed, bred, boarded, trained, or sold.

LOADING SPACE, OFF-STREET

Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LOT

A parcel of land considered as a unit, devoted to a certain use and occupied, or capable of being occupied, by a building or group of buildings that are united by a common interest or use, and the customary accessory uses and open space belonging to same.

A. LOT (CORNER)

— A parcel of land at the junction of and fronting on two or more intersecting streets, roads, or thoroughfares.

B. LOT (THROUGH)

— An interior lot having frontage on two parallel or approximately parallel streets, roads, or thoroughfares.

LOT AREA

The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.

LOT DEPTH

The mean distance from the right-of-way line of the street to the rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE

The linear distance along a lot line which adjoins the road or highway which provides access to the lot.

LOT LINE

The property lines bounding the lot:

A. LOT LINE, FRONT

— The line separating the lot from a street right-of-way.

B. LOT LINE, REAR

— The lot line opposite and most distant from the front lot line.

C. LOT LINE, SIDE

— Any lot line other than a front or rear lot line.

LOT OF RECORD

A lot which is part of an approved subdivision recorded in the office of the County Clerk or a lot described by metes and bounds, the description of which has been so recorded.

LOT WIDTH

The width of the lot between side lot lines at the front building line as prescribed by the front setback regulations.

MANUFACTURED HOME PARK

Any site, lot, field, plot, parcel or tract of land on which two or more manufactured homes are parked or located and are occupied or intended for occupancy on the premises, and for which either the said premises or manufactured homes are offered to the public for a fee of any type, including cost sharing. This includes the rental of the said premises and/or the manufactured homes.

MANUFACTURED HOUSING

A structure transportable in one or more sections, which in the traveling mode is eight feet six inches or more in width or 40 body feet or more in length, and which is constructed to either federal Department of Housing and Urban Development Code or New York State Building Code.

MINING

The use of an area of land to remove minerals, metals or other items of value from the ground for a profit, including gas and oil wells.

MOBILE HOME

A factory constructed dwelling constructed prior to June 15, 1976, which does not meet federal Department of Housing and Urban Development Code or New York State Building Code.

MODULAR HOME

A structure which is constructed according to the standards set forth in the state building code and, among other possibilities, may consist of two or more sections transported to the site in a manner similar to manufactured housing, or a series of panels or room sections transported on a truck and erected or joined together on the site. Modular homes may or may not have an integrated chassis.

MOTEL

A building or group of buildings, whether detached or in connected units, containing sleeping units or lodging facilities for transient guests. Accessory facilities, such as restaurants, meeting rooms, retail business activities and other similar services, which solely accommodate the motel patrons and not the general public, are allowed. The term "motel" includes buildings designated as auto cabins, auto courts, motor lodges, tourist courts, hotels and similar terms.

MOTOR VEHICLE

Any vehicle designed to be propelled or drawn by power other than muscle power, except electrically driven wheelchairs being operated or driven by an invalid. This term shall include automobiles, trucks, buses, motorcycles, tractor-trailers, boats, motor homes, snowmobiles, all-terrain vehicles and garden and lawn tractors.

MOTOR VEHICLE OR MANUFACTURED HOME SALES

An open area, other than a street, used for the display, sale, lease or rental of new or used motor vehicles or manufactured homes in operable condition and where no repair work is done.

MOTOR VEHICLE REPAIR SHOP

A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles for compensation.

NEIGHBORHOOD BUSINESS

Small commercial establishments, containing less than 6,000 square feet in gross floor area, catering primarily to nearby residential areas and providing convenience goods and services, including, but not limited to, grocery stores, drugstores, beauty salons, barbershops, carry-out dry cleaning and laundry pickup stations.

NONCONFORMING BUILDING OR STRUCTURE

A building or structure legally existing at the time of enactment of this chapter or any amendment thereto, and which does not conform to the area or dimensional regulations of the

district or zone in which it is situated.

NONCONFORMING LOT

A lot of record existing at the date of the enactment of this chapter which does not have the minimum width, depth or area for the district in which it is located.

NONCONFORMING USE

Any use of land, buildings or structures legally existing at the time of enactment of this chapter, and which does not legally conform to the regulations of the district or zone in which it is located.

OFFICE BUILDING

A building in which office use comprises more than 50% of the total floor area. This does not include home occupations, where offices are a secondary or incidental use.

OPEN SPACE

Area unoccupied by any building, structure or parking area, whether paved or unpaved.

OPEN STORAGE

An unenclosed area used for temporary or seasonal storage of vehicles, materials, building supplies, stock, or supplies for later use in conjunction with a permitted principal use, accessory use, or special permitted use.

PARKING, OFF-STREET

An off-street area with an appropriate means of vehicular access to a street intended for the temporary storage of vehicles.

PARKING SPACE

Space available for the parking of one motor vehicle and having an area of not less than 180 square feet (nine feet by 20 feet), exclusive of passageways and driveways providing access thereto.

PERMITTED USE

A land use listed in the zoning district regulations of this chapter as permitted.

PINBALL OR VIDEO GAME ARCADE

Any indoor place or enclosure in which is maintained or operated, for the amusement, patronage, or recreation of the public, three or more coin-controlled amusement devices, including the types commonly known as "pinball," "video games," and "foosball."

PRINCIPAL BUILDING

A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL USE

The main or primary purpose for which a building, structure or lot is to be used.

PROFESSIONAL OFFICES

The office or place of business where professional services are offered and does not involve the sale of goods, or the keeping of a stock-in-trade. Professional offices include, but are not limited to, medical doctors, dentists, surgeons, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

PROFESSIONAL SERVICES

A specific activity performed by a qualified person which requires training and/or specialized study.

PUBLIC AND SEMIPUBLIC USES

This definition is intended to include, but not be limited to, any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- A. Cemeteries and associated uses.
- B. Churches, places of worship, parish houses and convents.
- C. Public or semipublic parks, playgrounds and recreational areas when authorized or operated by a governmental authority, school, or religious institution.
- D. Nursery schools, elementary schools, high schools, colleges, or universities.
- E. Public libraries and museums.
- F. Not-for-profit fire, ambulance and public safety buildings.
- G. Administrative office buildings and related facilities operated by public agencies.
- H. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes for adults, or homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
- I. Not-for-profit membership corporation or club established for cultural, social, or recreational purposes.
- J. Day-care centers approved by the New York State Department of Social Services.

PUBLIC MARKET

A site which provides space, on a rental or fee basis, for growers to sell agricultural products to the general public.

RECREATIONAL VEHICLE

A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic types are:

- A. **TRAVEL TRAILER**
 - A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and of a body width of no more than eight feet six inches, excluding awnings, and a body length of no more than 40 feet when factory equipped for the road.
- B. **TENT CAMPER**
 - A portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.
- C. **TRUCK CAMPER**
 - A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two basic types:
 - (1) **SLIDE-IN CAMPER**
 - A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
 - (2) **CHASSIS-MOUNT CAMPER**
 - A portable unit designed to be affixed to a truck chassis.
- D. **MOTOR HOME**

— A vehicular unit built on a self-propelled motor vehicle chassis.

RECREATION OR AMUSEMENT FACILITY

A facility used or designed to be used for either public or private (commercial) recreational purposes. Outdoor facilities include, but are not limited to, golf courses, driving range, miniature golf, and race tracks. Indoor facilities include, but are not limited to, bowling alleys and health clubs. This definition shall not include stables or riding facilities or parks or playgrounds operated by a government agency or nonprofit organization for public use.

RESERVOIR SPACE

Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this chapter. One reservoir space shall be 24 feet long and 10 feet wide.

RESIDENTIAL CONVERSION

The conversion of the use of a building from nonresidential to residential use or the structural alteration of an existing residential structure to increase the number of residential units in the structure.

RESTAURANT

Any establishment, however designated, at which food or drink is sold for consumption to patrons seated within an enclosed building or on the premises.

RETAIL FUEL OUTLET

Any establishment that sells gasoline, diesel, kerosene, propane, or similar fuels to the public. This includes automobile service stations, convenience stores, car washes or any other facility that sells fuels.

RIDING STABLE

Any use housing animal livestock, such as horses, and providing such livestock to the public for riding on a pay-per-use or fixed-fee basis.

RIGHT-OF-WAY

Land set aside for use as a street, alley, or other means of travel.

RIGHT-OF-WAY LINE

The line determining the street or highway limit of public ownership. For the purposes of this chapter, the right-of-way line and the street line shall have the same meaning.

ROAD, ARTERIAL

A road, normally a state highway, 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.

ROAD, COLLECTOR

A road which serves or is designed to carry traffic from minor streets to the arterial street system.

ROAD, MINOR (LOCAL)

A street or road used primarily to provide access to abutting properties.

ROADSIDE STAND

Retail outlet, consisting of nonpermanent structures (movable and temporary), for the sale of agricultural products grown principally by the operator during the harvest season. (See also "farm market.")

ROOMING HOUSE

A dwelling other than a hotel, motel or tourist home, where more than two persons are housed or lodged for hire with or without meals. A rooming house is distinguished from a tourist home in that it is designed to be occupied by longer-term residents as opposed to overnight or weekly guests.

SATELLITE DISH ANTENNA

A combination of an antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources and a low noise amplifier whose purpose is to carry signals into the interior of a building, but shall not include a telecommunications facility as defined herein.

SEASONAL SERVICE RESTAURANT

A restaurant which operates only seasonally. Included are coffee shops, lunch counters, and ice cream parlors.

SERVICE ESTABLISHMENT

A business primarily involved in the provision of services, rather than goods, to other businesses or to the general public.

SETBACK

The horizontal distance between the street line, rear or side lines of the lot and the front, rear or side lines of the building. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks." Setbacks from side lot lines are "side setbacks." Setbacks from rear lot lines are "rear setbacks."

SHOPPING CENTER

A group of stores, shops and similar establishments occupying adjoining structures or two or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

SIGHT DISTANCE

The maximum extent of unobstructed vision along a street from a vehicle located at any given point on the street.

SIGN

Any structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

SIGN AREA

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

SIGN, OFF-PREMISES ADVERTISING

A sign which advertises an establishment, merchandise, service or entertainment which is not sold, produced or manufactured or furnished at the property on which said sign is located (e.g., outdoor advertising).

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

SITE PLAN

A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

A. SITE PLAN, FINAL

— A complete and exact subdivision or site plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

B. SITE PLAN, PRELIMINARY

— A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.

C. SITE PLAN, SKETCH

— An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings, and the general layout of the proposed subdivision or site.

SITE PLAN REVIEW

A review and approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing criteria stated in this chapter.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade.

SPECIAL PERMIT USES

Those particular uses which are specifically permitted in a given district only when conditioning criteria enumerated in this chapter are met.

STREET LINE

See "right-of-way line."

STRUCTURE

Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For example, structures include buildings, mobile homes, walls, fences, signs, sheds, billboards and poster panels, docks, and/or similar construction types.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the assessed value of the structure either:

- A. Before the improvement or repair is started; or
- B. If the structure has been damaged and is being restored, before the damage occurred.

SWIMMING POOL

Any body of water, or receptacle for water, having a capability of a depth of 24 inches or more at any point, used or capable to be used for swimming, bathing, or wading, whether installed or constructed above or below ground, including both permanent and portable units, including preformed or inflatable pools.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

TAVERN

Any establishment, licensed by the State of New York, that engages in the sale for on-premises consumption of alcoholic and nonalcoholic beverage(s).

TELECOMMUNICATIONS FACILITY

Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast communications and private radio communications services, and are

regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws. A telecommunications facility shall include monopole, guyed, or latticework tower(s), as well as antenna(s), switching stations, principal and accessory telecommunications equipment and supporting masts, wires, structures, and buildings.

TEMPORARY USE

An activity or use conducted for a specified limited period of time, not exceeding six months. This term shall include those uses incidental to construction projects, festival tents/refreshments stands, temporary real estate sales offices incidental to a subdivision project, and similar type uses.

TOWNHOUSE

An independent single-family dwelling unit which is one of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

USE

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

VARIANCE

A variance is any departure from the strict letter of this chapter granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

WHOLESALE ESTABLISHMENT

A business which is primarily involved in sales to other businesses, either directly or as a broker, rather than to the general public.

WINDMILL

An alternative energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

YARD

An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD, FRONT

The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front line. (See also "setback, front.")

YARD, REAR

An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory building and open porches. (See also "setback, rear.")

YARD SALE

The temporary displaying of household items and clothing for sale on a yard, porch or in a barn or garage. This term shall include garage sales, barn sales, porch sales, tag sales and other sales similar in nature.

YARD, SIDE

An open space on the lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than two feet for rainwater leaders, window sills, and other such fixtures and open steps. (See also "setback, side.")

ZONING CERTIFICATE OF COMPLIANCE

See "certificate of compliance."

ZONING PERMIT

A document issued by the Code Enforcement Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this chapter.

Article III. Permits and Procedures

§ 350-12. Permits required.

No use or structure shall be established, erected, nor land developed until a zoning permit has been issued by the Code Enforcement Officer, who shall issue such permits in accordance with regulations in this chapter.

§ 350-13. Zoning permit types.

Under the terms of this chapter, the following types of zoning permits may be issued:

- A. Permitted use. A zoning permit for a permitted use may be issued by the Code Enforcement Officer on his own authority. The zoning permit may be issued in conjunction with, and administered using the same form as, a building permit.
- B. Site plan approval. A zoning permit for a permitted use may be issued by the Code Enforcement Officer after site plan approval from the Planning Board, as more fully described in Article **X**. The following permitted uses are not subject to site plan approval: one- or two-family dwellings, farm uses, or accessory uses associated with a one- or two-family dwelling or farm use.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- C. Special permit uses. A zoning permit for a special permit use may be issued by the Code Enforcement Officer after special permit approval and site plan approval from the Planning Board, after a public hearing, as more fully described in Article **IX**.
- D. Zoning permit after a request for variance. A zoning permit for a use or structure which requires a variance may be issued by the Code Enforcement Officer upon order of the Zoning Board of Appeals, after a public hearing, as more fully described in Article **VIII**.

§ 350-14. Application procedure and required information.

- A. Application. Application for a zoning permit shall be made with the Code Enforcement Officer on forms approved by the Town Board. Forms shall be made available at the offices of the Code Enforcement Officer and the Town Clerk.
- B. Information.
 - (1) All information on the application form shall be completed.
 - (2) In addition, two copies of a property map shall be submitted with all applications. The map shall be either:
 - (a) Sketch map. A sketch map is required with all applications for a zoning permit for one- or two-family dwellings, their customary accessory uses, or farm use. The sketch map shall be drawn to scale and show the dimensions and location of the lot, exact size

and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway location, natural watercourses, ponds, surface drainage patterns or location of existing or proposed easements; or

- (b) Site plan. A site plan is required with applications for all other uses. The requirements and procedures for site plan approval are in Article X.
- C. Approval of water and sewage disposal systems. Evidence of approval of the water supply and the sewage disposal system plans by the Orleans County Health Department or its agent, or design plans signed by a licensed engineer, shall be submitted at the time of application. Applications lacking such information shall not be accepted.
- D. Evidence of property ownership or intent to purchase. Copies of deeds, titles, purchase agreements, or other proof of ownership or intent to purchase shall be attached to an application before it will be accepted.
- E. Licenses. Any use currently licensed by federal, state, county or Town agencies and already operating within the Town shall present evidence of currently valid licenses before any expansion permits are considered.
- F. Fee. The appropriate nonrefundable fee established by the Town Board in its fee structure shall be collected at the time of application. This fee structure shall be filed and posted at the office of the Town Clerk.

§ 350-15. Zoning permit granted.

When all requirements of this chapter have been met, the Code Enforcement Officer shall issue a zoning permit and return one approved copy of the map to the applicant no later than 15 days after approval. The Code Enforcement Officer shall file one copy of the approved permit in his office.

§ 350-16. Termination of permit.

- A. Permits issued pursuant to this article shall expire in 12 months unless the project is completed.
- B. An extension for time of completion may be granted for a maximum of six months and upon payment of applicable fees. The Code Enforcement Officer may grant an extension for any zoning permit issued on his own authority. Requests for extensions for zoning permits issued by the Code Enforcement Officer upon order of the Planning Board or Zoning Board of Appeals shall require approval from the Board authorizing the issuance of such zoning permit. Applicants shall justify the need for the proposed extension, and the Board hearing such request may include any conditions or requirements it deems necessary or desirable. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- C. If a project is not initiated within six months of the issuance of the permit, the permit issued shall be considered null and void.

§ 350-17. Certificate of compliance.

- A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or

partly altered or enlarged in its use or structure until a certificate of compliance shall have been issued therefor by the Code Enforcement Officer stating that the proposed use of the building or land conforms to the requirements of this chapter.

- B. Failure to obtain a certificate of compliance shall be a violation of this chapter and punishable as provided by Article VIII.
- C. Within seven days after the completion of the change in use of a building or parcel of land, the applicant shall so notify the Code Enforcement Officer stating that such action has been completed. Within 15 days of the receipt of this letter, the Code Enforcement Officer shall conduct a final inspection of the premises to determine whether the new use complies with the requirements of this chapter. If the Code Enforcement Officer determines that said building or use complies with the provisions herein, he shall issue a certificate of compliance. If it is determined that the provisions specified herein are not fully complied with, the Code Enforcement Officer shall specify the violations and the terms and conditions for remedying these violations. A certificate of compliance shall not be issued until such violations are corrected.
- D. No nonconforming building or use shall be maintained, renewed, changed or extended without a certificate of compliance having first been issued by the Code Enforcement Officer. The certificate of compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter.
- E. The certificate of compliance may be issued at the same time and may be administered using the same form as the certificate of occupancy issued pursuant to the New York State Uniform Fire Prevention and Building Code.

Article IV. Establishment and Designation of Zoning Districts

§ 350-18. Establishment of districts.

The Town of Barre is hereby divided into zoning districts as hereinafter set forth and as the same may be, from time to time, amended.

- AR Agricultural/Residential
- R-1 Residential
- B General Business
- LI Light Industrial
- PD Planned Light Industrial/Commercial Development
- F Flood Hazard Overlay District

§ 350-19. Zoning Map.

Editor's Note: The Zoning Map can be viewed on the Town's Web site: <http://townofbarreny.com/>; however, the official copy of the Zoning Map is on file in the office of the Town Clerk.

- A. There shall exist only one official Zoning Map which shall be kept in the office of the Town Clerk, and it shall bear certification that it is the Official Zoning Map of the Town of Barre and its date of adoption. Said Zoning Map shall show the boundaries of the zoning districts herein established, and, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.
- B. Said Zoning Map shall be on material suitable for reproduction. Copies of this map, which may

from time to time be published and sold, would be accurate only as of the date of their printing and shall bear words to that effect.

- C. Changes made in zoning district boundaries, or other matters portrayed on the Zoning Map under the provisions set forth herein, shall be permanently affixed to the Zoning Map promptly after an amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment to this chapter, which involves matters portrayed on the Zoning Map, shall become effective until such change and entry has been made on said Zoning Map and has been attested to by the Town Clerk.

§ 350-20. Interpretation of district boundaries.

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

- A. District boundaries indicated as approximately following the center lines of streets or highways shall be construed as following such center lines.
- B. District boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. District boundaries indicated as being approximately parallel to the center lines or right-of-way lines of streets or highways shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said Zoning Map.
- D. District boundaries indicated as approximately following a stream, lake or other body of water shall be construed to follow the center lines of such stream or other body of water.
- E. Boundaries indicated as parallel to or extensions of features indicated in Subsections **A** through **D** above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- F. Where physical or cultural features on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by Subsections **A** through **E** above, the Code Enforcement Officer shall request the Zoning Board of Appeals to render its interpretation.

§ 350-21. Applicability of regulations.

The regulations set by this chapter shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
 - (1) Exceeds the height limitation for any structure within a specified district;
 - (2) Accommodates or houses a greater number of dwelling units than is permitted within a specified zoning district;
 - (3) Occupies a greater percentage of lot area than is permitted by Article **V**, District Regulations, of this chapter; or

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (4) Has narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this chapter or the requirements of the New York State Uniform Fire Prevention and Building Code.
- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the regulations set forth herein shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in §§ **350-30** and **350-31**.
- D. No yard or lot existing at the time of enactment of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet or exceed the minimum requirements established herein.

Article V. District Regulations

§ 350-22. Agricultural/Residential District (AR).

- A. Purpose. The purpose of the AR Agricultural/Residential District is to protect agricultural lands and uses from incompatible uses and development; to maintain an open rural character of the community; to assure compatible types and densities of development; to provide for low density, rural development on lands where public sewers and water service do not exist and are not envisioned in the near future; and to protect the natural environment.
- B. Permitted uses:
 - (1) Single-family and two-family dwellings, not to exceed one principal structure per lot.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - (2) Agriculture (farming) as defined herein.
 - (3) Storage, packing and sale of field, garden, orchard, nursery, and vineyard crops, but not including agricultural product processing facilities or distribution centers.
 - (4) Roadside stands, under the following conditions:
 - (a) The stand shall be set back not less than 30 feet from the edge of the right-of-way line.
 - (b) Sufficient land area shall be provided to accommodate off-street parking for not less than three vehicles on site.
 - (c) Such stands (including signs associated with such uses) shall be removed and appropriately stored within 10 days of the end of the harvest season.
 - (5) Seasonal dwellings, provided that all applicable provisions of the New York State Uniform Fire Prevention and Building Code are met.
- C. Permitted accessory uses:
 - (1) One private detached garage or carport with a maximum capacity of 800 square feet for the parking of automobiles or storage of property belonging to residents on the premises. Detached garages shall be located to the rear of the front building line of the principal building and may be located in a side yard with a minimum side yard setback of 15 feet.
 - (2) Customary accessory structures serving residential uses, including, but not limited to, private swimming pools, storage buildings, greenhouses, pet shelters and fireplaces. A

private detached garage or carport shall not be considered a customary accessory structure.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) Customary farm accessory buildings for the storage or packing of products or equipment, but not including agricultural product processing facilities or distribution centers.
 - (4) The keeping, breeding, and raising of farm animals in association with a residential use, subject to the following restrictions:
 - (a) No stable, similar animal housing or confining areas shall be allowed on lots of less than two acres.
 - (b) No structure housing such animals shall be located closer than 50 feet to any street or property line.
 - (c) Not more than one adult or fully grown horse, cow, beef cattle, sheep, goat or other four-legged domestic-type farm animal, or combinations thereof, may be kept per acre of land in the residential parcel.
 - (d) Not more than a total of any combination of 12 adult or fully grown chickens, ducks, geese or other fowl or birds of any type may be kept per acre of land in the residential parcel.
 - (5) Yard sales, provided that not more than three such sales shall occur during one calendar year, and that the duration of such sales do not exceed three consecutive days.
 - (6) Off-street parking, fencing and signs in accordance with the provisions of this chapter.
 - (7) Other accessory uses not specified herein may be approved, provided that the Zoning Board of Appeals renders an interpretation indicating that such uses are clearly accessory to the permitted principal use and consistent with the purpose and intent of the zone district and this chapter.
- D. Uses requiring a special permit issued by the Planning Board (subject to special permit regulations, Article **VII**):
- (1) Home occupation.
 - (2) Private or commercial airport or airstrip.
 - (3) Animal hospital.
 - (4) Bed-and-breakfast establishment.
 - (5) Campground.
 - (6) Cluster residential development.
 - (7) Conference/resort complex.
 - (8) Essential services and utilities.
 - (9) Excavation and mining.
 - (10) Farm labor camp.
 - (11) Farm markets.
 - (12) Kennel.
 - (13) Manufactured home park.

- (14) Public and semipublic use, including day-care center.
- (15) Stable or riding academy.
- (16) Telecommunications facility.
- (17) Any other use which, in the opinion of the Planning Board, is similar in nature and effect to the special use permits prescribed in this section.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

E. Specifications.

- (1) Setback requirements:
 - (a) Front: 75 feet (measured from right-of-way line).
 - (b) Side: 15 feet.
 - (c) Rear: 15 feet.
- (2) Lot width: 200 feet.
- (3) Minimum lot size: 40,000 square feet.
- (4) Maximum building height: 35 feet except agricultural storage facilities and airport structures.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (5) Maximum building coverage: 25%.

§ 350-23. R-1 Residential District.

- A. Purpose. The purpose of the R-1 Residential District is to provide a stable environment for rural residential development, free from incompatible uses.
- B. Permitted uses:
 - (1) One-family dwellings.
 - (2) Two-family dwellings.
 - (3) Agriculture (farming) as defined herein.
- C. Permitted accessory uses: All accessory uses permitted in the AR District shall be permitted in the R-1 District.
- D. Uses requiring a special permit issued by the Planning Board (subject to special use regulations, Article VII):
 - (1) Bed-and-breakfast establishment.
 - (2) Cluster residential development.
 - (3) Essential services and utilities.
 - (4) Home occupations.
 - (5) Manufactured home park.
 - (6) Public and semipublic uses, including day-care centers.
 - (7) Any other use which, in the opinion of the Planning Board, is similar in nature and effect to

the special use permits prescribed in this section.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

E. Specifications.

(1) Setback requirements:

(a) Front: 75 feet (measured from right-of-way line).

(b) Side: 15 feet.

(c) Rear: 15 feet.

(2) Minimum lot width: 150 feet.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(3) Maximum height: 35 feet.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(4) Minimum lot size: 30,000 square feet.

(5) Maximum building coverage: 30%.

§ 350-24. General Business District (B).

A. Purpose. The purpose of the General Business District is to provide for business establishments serving the needs of area residents, especially retail and service businesses, as well as to accommodate residential development.

B. Permitted uses:

(1) One-family dwelling.

(2) Two-family dwelling.

(3) Agriculture (farming) as defined herein.

(4) The storing, packing and sale of field, garden, orchard, nursery, and vineyard crops.

(5) Farm markets.

(6) Roadside stands, subject to the requirements of § **350-22B(5)**.

(7) Retail business establishments which are clearly of a neighborhood service character, such as, but not limited to, the following:

(a) Stores selling groceries, meats, baked goods, and other such food items.

(b) Drugstores and variety stores.

(c) Stationery, tobacco and newspaper stores and confectionery stores.

(d) Clothing, variety and general merchandise stores.

(e) Hardware, appliance, radio and television sales and service.

(8) Personal service establishments which shall include, but not be limited to, the following:

(a) Barber- and beauty shops.

(b) Shoe repair and fix-it shops.

- (c) Dry-cleaning stores and laundromats.
 - (9) Business and professional offices, including, but not limited to, medical, dental, real estate, and accounting.
 - (10) Assembly halls and theaters, excluding drive-in theaters.
 - (11) Newspaper printing, including incidental job printing.
 - (12) Funeral parlors.
 - (13) Custom shops, including, but not limited to, printing, electrical, heating, plumbing, or woodworking.
 - (14) Building supply and farm equipment stores.
 - (15) Wholesale establishments provided that all sales activities are conducted in a completely enclosed building.
 - (16) Commercial greenhouse or nursery.
 - (17) Assembling, converting, altering, finishing, cleaning, or any other processing of products, provided that:
 - (a) Goods so produced or processed are to be sold at retail, exclusively on the premises;
 - (b) Space used for such purposes shall not occupy more than 20% of the area devoted to retail sales, shall be clearly incidental to such retail use and shall be fully concealed from any street;
 - (c) Not more than two persons shall be engaged in such production/processing at any one time.
 - (18) Machine tool sales, rental or service.
 - (19) Commercial storage buildings providing space for rent.
 - (20) Business service establishments, including, but not limited to, accounting, computer services and repairs, and consulting.
 - (21) Veterinary animal clinics or offices with interior operations only.
 - (22) Restaurant not serving alcoholic beverages.
 - (23) Recreation and amusements facility.
 - (24) Bed-and-breakfast establishment.
 - (25) Other business uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.
- C. Permitted accessory uses:
- (1) All accessory uses permitted in the AR District shall also be permitted in the B District.
 - (2) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.
 - (3) Off-street parking, loading and unloading facilities, signs, fences and landscaping subject to the provisions of this chapter.
 - (4) Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops,

hairdressers, gift shops, and other personal service shops for the convenience of guests may be permitted as accessory uses to hotels or motels. With the exception of an identifying sign for the restaurant, no external evidence of such internal commercial activities is permitted.

- (5) Other business uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

D. Uses requiring a special permit issued by the Planning Board (subject to special permit use regulations, Article **VII**):

- (1) Animal hospital (with outdoor facilities).
- (2) Drive-in business.
- (3) Essential services and utilities.
- (4) Excavation or mining.
- (5) Kennel or animal hospital (with outdoor runs or other facilities).
- (6) Manufactured home park.
- (7) Motel or hotel.
- (8) Motor vehicle, manufactured housing, or boat sales.
- (9) Motor vehicle service station or auto repair shop.
- (10) Multiple-family dwelling or development.
- (11) Public and semipublic buildings or uses.
- (12) Recreation or amusement enterprise.
- (13) Retail fuel outlet.
- (14) Restaurants and/or taverns serving alcoholic beverages.
- (15) Any other use which, in the opinion of the Planning Board, is similar in nature and effect to the special use permits prescribed in this section.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

E. Other provisions and requirements.

- (1) Buffer strip. Commercial structures shall provide a natural buffer strip to be perpetually maintained so as to provide visual screening and separation between commercial and residential uses.
- (2) Refuse containers. Commercial structures shall provide a commercial-type refuse container on site. Such containers shall be placed on concrete or stone areas and visually screened, and shall provide rodent control.
- (3) Residential lot line. No commercial structure shall be permitted within 50 feet of the nearest lot line of any residential district.
- (4) Off-street parking, loading and unloading facilities shall be subject to the provisions of §§ **350-30** and **350-31** of this chapter.
- (5) Signs shall be subject to the requirements of § **350-29**.

F. Specifications.

- (1) Setback requirements:
 - (a) Front: 75 feet (measured from right-of-way line).
 - (b) Side: 15 feet.
 - (c) Rear: 50 feet.
- (2) Minimum lot width: 200 feet.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (3) Maximum height: 35 feet.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (4) Minimum lot size: 40,000 square feet.
- (5) Maximum building coverage: 35%.

§ 350-25. Light Industrial District (LI).

- A. Purpose. The purpose of the Light Industrial District is to provide for light manufacturing, assembly and storage type facilities.
- B. Permitted uses:
 - (1) Agriculture.
 - (2) Scientific research or experimental development of materials, methods or products, including engineering and laboratory research.
 - (3) Administrative, educational and other related activities and facilities in conjunction with a permitted use.
 - (4) Manufacture or assembly of electric, electronic or optical instruments or devices.
 - (5) Manufacturing, assembling, fabricating or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals or stone.
 - (6) Agricultural product processing, including manufacturing of food products, pharmaceuticals and the like, but not including the production of fish, meat or dairy products, or fermented foods such as sauerkraut, vinegar, or the like, or the rendering of fats and oils.
 - (7) Precision uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.
 - (8) Commercial storage buildings providing space for rent.
 - (9) Warehousing and distribution facilities, including agricultural product distribution centers.
 - (10) Other uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.
- C. Permitted accessory uses:
 - (1) Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted use.
 - (2) Off-street parking, loading and unloading facilities and signs, fences and landscaping subject to the provisions of this chapter.

- (3) Other business uses which, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.
- D. Uses requiring a special permit issued by the Planning Board (subject to special permit use regulations, Article **VII**):
- (1) Adult entertainment uses.
 - (2) Junkyards, auto wrecking, and dismantling yards.
 - (3) Telecommunications facility.
 - (4) Any other use which, in the opinion of the Planning Board, is similar in nature and effect to the special use permits prescribed in this section.
Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- E. Provisions and requirements.
- (1) Residential uses shall be prohibited except for a caretaker's residence on site.
 - (2) All assembly, research, engineering, administration, storage and other related activities shall be conducted wholly within enclosed buildings.
 - (3) Incidental storage out of doors may be permitted, provided that such materials are shielded from view from public streets and adjacent off-street parking areas by fencing, landscaping or other appropriate measures.
 - (4) At no time shall any use result in or cause dissemination of dust, smoke, smog, observable gas, fumes, odors, radiation or other atmospheric pollution, objectionable noise, glare or vibrations or hazard of fire or explosive or any other physical hazard to any adjacent buildings or to any plant growth or any land adjacent to the site.
 - (5) The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as to adjacent development.
 - (6) All uses permitted shall set aside not less than 20% of the lot area to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall be used for no other purposes.
 - (7) Each use shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard. Off-street loading facilities shall be subject to the additional provisions of § **350-31** of this chapter.
 - (8) Industrial structures shall be located so as to be a minimum of 75 feet from any nonindustrial district. A natural buffer strip shall be placed and maintained so as to provide visual screening and separation between industrial and nonindustrial uses.
 - (9) Parking areas may be located in any of the required yard areas, provided they are not less than 50 feet from a right-of-way line or 30 feet from any other property line.
 - (10) Signs shall be permitted pursuant to the regulations in § **350-29** of this chapter.
- F. Specifications.
- (1) Setback requirements:
 - (a) Front: 75 feet (measured from right-of-way line).
 - (b) Side: 50 feet.

(c) Rear: 50 feet.

(2) Maximum height: 35 feet.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(3) Minimum lot width: 200 feet.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(4) Minimum lot size: one acre.

(5) Maximum building coverage: 35%.

G. Prohibited uses:

(1) Acetylene gas manufacture.

(2) Oxygen manufacture.

(3) Celluloid manufacture.

(4) Disinfectant or insecticide manufacture.

(5) Asphalt manufacture or refining.

(6) Coal or tar distillation, including manufacture or treatment.

(7) Boiler making.

(8) Steel furnace manufacture.

(9) Blooming or rolling mill.

(10) Soap manufacture.

(11) Chlorine or hydrochloric, nitric, picric or sulfuric manufacture.

(12) Smelting of copper, tin, zinc, lead or iron ores.

(13) Manufacture of explosives, storage of explosives in bulk.

(14) Glue, size or gelatin manufacture where the process includes the refining or recovery of products from fish or animal refuse or offal.

§ 350-26. Planned Industrial/Commercial Development District (PD).

A. Purpose. The PD Planned Industrial/Commercial Development District has been designed to encourage commercial and industrial development which conforms to a coordinated site development plan for a relatively large area. Such development should represent the most efficient and productive use of the land area so zoned. Individual uses permitted in this zone shall be designed and constructed so as not to preclude further industrial or commercial development within the PD Zoning District.

B. Objectives.

(1) The proposed industrial and/or commercial development shall be in harmony with the general purpose, goals and objectives of the Comprehensive Plan and this chapter.

(2) The proposed development shall comply with all applicable regulations of this chapter except as modified by the authority of this section.

- (3) The proposed development shall not have a substantial adverse effect upon adjacent properties, utility facilities, traffic conditions and other matters that would affect the public health, safety and general welfare.
- (4) The proposed development shall be constructed, arranged and operated so as to not interfere with the development and use of neighboring properties.
- (5) The proposed development shall be adequately served by essential public facilities and services, such as, but not limited to, sanitary sewers, public water supply, stormwater drainage facilities and highway capacity.
- (6) The proposed development shall make appropriate provisions for the preservation of trees, streams, wetlands, natural topography and geological features and the prevention of soil erosion.

C. General requirements.

- (1) All industrial and commercial uses permitted in the I Industrial and B General Business Zoning Districts are permitted in this district, except for residential uses.
- (2) Accessory uses permitted in the commercial and industrial district are permitted as accessory uses in the PD District.
- (3) The minimum area required for a planned development shall be 20 contiguous acres of land. However, if an applicant can demonstrate that the characteristics of the property proposed for such use can meet the objectives of this section, projects with less acreage will be considered.
- (4) Where an applicant proposes the use of a portion of the site as common property, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities. For the purpose of this section, the term "common property" shall be defined as a parcel of land, together with improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the planned development.
- (5) Individual buildings within a planned development shall be related to each other in design, mass, materials, placement and connections to provide a visually and physically integrated development.
- (6) Utility lines providing electric, telephone, television or other services shall be installed underground.
- (7) Permitted use: single-family residences constructed before 1997.
[Added 2-10-2010]

D. Application procedures. Approval of a planned development shall be made by the Town Board, following review and recommendation from the Planning Board.

- (1) Planning Board review. The applicant shall meet with the Planning Board to describe the intent of the proposed development, to discuss design and development objectives and to submit a concept plan which depicts the manner in which the proposed project is to be developed. At this meeting, the applicant shall describe how the proposed development would be integrated with neighboring land uses, community features and public facilities and services. The concept plan shall be to scale and shall include the following information:
 - (a) The principal physical characteristics of the site, including an analysis of the soils and subsoils and the location of major stands of trees, streams, floodplains and rock outcropping.

- (b) The topography of the site with contour intervals of not more than five feet of elevation; areas of the site where grades exceed 3%; portions of the site with a moderate to high susceptibility to erosion, flooding or ponding; and a preliminary grading plan with five-foot contour intervals.
 - (c) An analysis of the relationship of the site to the surrounding community, including significant parcels of vacant land and the character of nearby built-up areas.
 - (d) A conceptual site development plan which presents a proposed lotting pattern, including the number and general sizing of individual lots; estimates of vehicular traffic volumes to be generated; a suggested internal street system, suggested sidewalks and circulation flows; a description of how the site will be tied to the existing street and pedestrian network; estimated demands for water and sewer services; a suggested layout of water, sanitary sewer and storm sewer facilities with proposed points of interconnection to existing systems; and the proposed stormwater drainage system and its relation to existing systems.
 - (e) A generalized description of how the site is to be buffered from adjacent areas. This shall include the retention of existing trees as well as new plantings to accomplish this objective.
 - (f) A description of the manner in which areas that are not proposed to become publicly owned are to be maintained, including, but not limited to, open space, streets and lighting.
 - (g) If the development is expected to be phased, a general description of the phasing plan, including the anticipated time frames for development.
 - (h) A description of any covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
 - (i) A written statement by the applicant setting forth the reasons why, in his opinion, the proposed rezoning would be advantageous to and in the best interests of the Town of Barre.
 - (j) An environmental assessment form (EAF) or a generic draft environmental impact statement (DEIS) to comply with the State Environmental Quality Review Act (SEQR).
Editor's Note: See Environmental Conservation Law § 8-0101 et seq.
 - (k) Any other information or documentation which the applicant deems necessary to support his application.
- (2) Planning Board report. Within 60 days of the receipt of a complete application, the Planning Board shall review the concept plan and supporting documents and provide a written report to the Town Board. The Planning Board shall hold a public hearing on the concept plan to assist it in the preparation of its report. If no report has been rendered within the sixty-day period, unless such time limit has been extended by formal action of the Planning Board, the applicant may proceed on the basis that the report is favorable. The Town Board shall be so informed on this matter.
- (a) A favorable report from the Planning Board shall be based on the following findings which shall be included as part of the report:
 - [1] The proposal implements the goals and policies of the Comprehensive Plan of the Town of Barre.
 - [2] The concept plan meets all of the requirements of this chapter.
 - [3] The proposal is conceptually sound in that it meets a community need and

conforms to accepted design standards for the proposed roadway system, land use configuration, open space and drainage systems.

[4] Adequate services and utilities are available or proposed to be made available in order to properly serve the proposed development.

(b) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant the conditions under which a favorable report may be issued.

(3) Town Board consideration. Upon receipt of a report from the Planning Board, the Town Board shall consider the application for the Planned Development and may establish a date for and conduct a public hearing for the site plan as provided by Town Law.

(4) Final site plan approval. In the approval of the site plan, the Town Board may establish a maximum aggregate gross floor area for all buildings in the district and may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its resolution additional requirements for the applicant to meet. Such requirements may include, but shall not be limited to: visual and acoustical screening; the order of construction and/or occupancy; vehicular and pedestrian circulation systems; protection of natural resources; and other physical or community needs.

§ 350-27. Flood Hazard Overlay Zone (F).

A. The Zoning Map indicates approximate boundaries of the Flood Hazard Overlay Zone. The exact legal boundaries of the flood hazard area is depicted on the official FIRM Maps and Flood Boundary Floodway Map prepared by the Federal Emergency Management Agency (FEMA).

B. Such areas shall be subject to the provisions of all applicable Town of Barre local laws in addition to the use regulations and other provisions of this chapter.

Editor's Note: See also Chapter 175, Flood Damage Prevention.

§ 350-28. (Reserved)

Article VI. Regulations Applicable to all Zoning Districts

§ 350-29. Signs.

A. Purpose. The purpose of these regulations is to provide comprehensive time, place and manner restrictions on signage, including, but not limited to, controls on size, height, quantity, location, spacing, shape, lighting, motion, design and appearance for the purpose of promoting community aesthetics, traffic safety, economic development and the protection of property values.

B. Sign permit required. A sign permit is required for all outdoor advertising signs, subject to the following standards:

(1) General advertising signs related to the permitted use of the premises are allowed, including secondary advertisement of products or services.

(2) Brand name sponsored signs are permitted, provided that the brand name, logo, trademark (or the combination thereof) shall not exceed 25% of the square footage of the sign.

- (3) Signs shall be informative, enhance the rural character of the community, and shall be consistent with the Town of Barre Comprehensive Plan. Signs that are manufactured from wood, or wood simulated products, or stone, or stone simulated products (with the appearance of natural wood or stone) are recommended.
- C. Exempt signs. The following types of signs may be erected without a permit in any zoning district:
- (1) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by government agencies, religious or nonprofit organizations. Such signs shall not exceed six square feet in area.
 - (2) Flags and insignia of any government, except when displayed in connection with commercial promotion.
 - (3) Any sign placed by any governmental agency for public purposes, or any nonadvertising sign identifying underground utility lines.
 - (4) On-premises directional signs for the convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs, internally illuminated or nonilluminated, not exceeding two square feet per face and six feet in height. Business names and personal names shall be allowed, excluding advertising messages.
 - (5) Nonilluminated warning, private drive, posted or no trespassing signs, not exceeding two square feet per face.
 - (6) Number and name plate identifying residents and/or property addresses, not exceeding two square feet per face.
 - (7) Private owner merchandise sale signs for garage sales and auctions, not exceeding four square feet for a period not to exceed seven days.
 - (8) Temporary lighted or unlighted signs erected by and for nonprofit organizations, such as churches, American Legion, Boy Scouts, Girl Scouts, political organizations, or military reserve associates, which advertise suppers, banquets, benefits, fund-raising sales, and similar functions, may be erected for a period of 40 days without a permit in any district.
 - (9) Temporary nonilluminated "For Sale," "For Rent," real estate signs and signs of similar nature, concerning premises upon which the sign is located. Such sign shall not exceed 24 square feet in area and shall be set back at least 10 feet from all property lines. All such signs shall be removed within three days after the sale, lease or rental of the premises or property.
 - (10) Holiday decorations, including lighting, are exempt from the provisions of this chapter and may be displayed in any district without a permit.
 - (11) Integral graphics or attached price signs on gasoline pumps at gasoline stations.
 - (12) Directional signs for meetings, conventions and other assemblies.
 - (13) One sign, not exceeding 16 square feet in area, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation or repair is in progress.
 - (14) Noncommercial speech signs, also known as "free speech" signs, which express an opinion or a statement unrelated to a business venture, are subject to the following conditions:
 - (a) The maximum number of noncommercial speech signs per lot shall be two excepting posted or preserve signs erected pursuant to the Environmental Conservation Law of the State of New York.

- (b) Such signs shall not exceed a total of 20 square feet in area for all signs on a single lot.
 - (c) Freestanding noncommercial speech signs shall not exceed six feet in height above grade level.
 - (d) Noncommercial speech signs shall not be illuminated, except indirectly.
 - (e) Political candidacy signs shall be removed within seven days following the election.
- D. General sign standards. All signs, including outdoor advertising signs and exempt signs, shall comply with the following standards:
- (1) No sign shall consist of lights which flash, or move, or appear to move.
 - (2) No sign shall be higher than the principal building to which it is accessory.
 - (3) No sign shall project into a public right-of-way, be closer than 30 feet from any street line nor closer than five feet to any other property line, create a traffic hazard, be unduly distracting to motorists and pedestrians, or reduce the effectiveness of signs needed to direct the public.
 - (4) No sign shall project on a public utility pole or traffic control structure.
 - (5) Except for businesses located in the General Business District (B) which are legally operating within the Town of Barre, no advertising sign shall be placed on premises other than the site of the business advertised. Businesses located in the General Business District (B) and legally operating within the Town of Barre shall be permitted to have one off-premises advertising sign, consistent with all provisions of this § **350-29**.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - (6) The total number of permitted signs on a single lot shall not exceed two, of which only one may be freestanding.
 - (7) The total cumulative area of all signs permitted on a single lot shall not exceed: a) 32 square feet; or b) an amount calculated at the rate of one square foot of sign area per linear foot of building front, plus one square foot of sign area for every four linear feet setback of the principal building on the property, whichever is greater, but in no case shall the total sign area allowed exceed 64 square feet.
- E. Construction standards for all signs.
- (1) All signs, including wall-mounted and projecting signs, shall be securely anchored and shall not swing or move in any manner.
 - (2) All signs, sign finishes, supports and electrical work shall be kept clean and painted, and free from all hazards, such as but not limited to faulty wiring and loose supports, guys and anchors.
 - (3) All projecting, freestanding or wall mounted signs shall employ acceptable, safe materials.
 - (4) All signs shall be painted and/or fabricated in accordance with generally accepted standards.
 - (5) No freestanding sign shall be more than 20 feet in height above finished grade. Such height shall be measured vertically from the established grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures.
- F. Nonconforming signs. All existing signs that are legal at the time of the enactment of this chapter shall be allowed to remain as long as they are properly maintained and their use

remains current. Replacement of any existing sign for any cause shall be in accordance with the more restrictive provisions of this chapter.

G. Procedures for obtaining a sign permit.

(1) Except as otherwise provided, no person shall erect, alter or relocate any sign without first obtaining a permit from the Code Enforcement Officer. Subsequent to this initial application, no permit shall be required for a sign to be repainted, repaired or have its message changed.

(2) Application procedure. Applications shall be made to the Code Enforcement Officer on the form prescribed and provided by the Town of Barre, accompanied by the required fee, and shall contain the following information:

(a) Name, address and telephone number of:

[1] Applicant;

[2] Owner of the property; and

[3] Contractor installing the sign.

(b) Location of the building, structure or land upon which the sign now exists or is to be erected.

(c) If a new sign is to be erected, elevation and plan drawings to scale shall be included. In addition, a full description of the placement and appearance of the proposed sign shall be included and shall cover the following:

[1] Location on the premises, specifically, its position in relation to adjacent buildings, structures and property lines;

[2] The method of illumination, if any, and the position of lighting or other extraneous devices;

[3] Graphic design including symbols, letters, materials and colors; and,

[4] The visual message, text, copy or content of the sign.

(d) Written consent, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.

(3) Permit.

(a) Upon the filing of a completed application for a sign permit and the payment of the required fee, the Code Enforcement Officer shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this article, the Code Enforcement Officer shall then, within five days of receiving the application, issue a permit for the erection of the proposed sign, or for alterations of an existing sign. The issuance of the permit shall not excuse the applicant from conforming to the other laws, rules and regulations of the Town of Barre.

(b) If the erection of the sign authorized under any such permit has not commenced within six months from the date of issuance, the permit shall become null and void, but may be renewed within 30 days prior to the expiration, for good cause shown, for an additional six months, upon payment of 1/2 of the original fee.

(4) Permit fee. Fees for the sign permits shall be fixed by the Town Board and listed in the fee schedule.

H. Removal of temporary signs. Temporary signs that are not removed by the owner within the

time specified herein shall be removed by the Code Enforcement Officer, after 10 days' written notice to remove such sign and after the failure of the owner to remove such sign. The cost of removal by the Code Enforcement Officer shall be charged to the owner of the premises where the temporary sign was displayed.

§ 350-30. Off-street parking.

In all districts there shall be provided, at the time any building or structure is erected, enlarged, increased in capacity or changed in use, improved and usable off-street parking spaces for motor vehicles in accordance with the requirements of this section. Existing buildings or uses shall not be subject to the requirements of this section, unless said building shall be enlarged or the use of said building or land is changed. In such cases, off-street parking facilities shall be provided as hereinafter specified for the building as enlarged or to accommodate the needs of the new use.

A. Design requirements.

- (1) All uses shall provide adequate off-street parking for all vehicles parked during typical peak periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.
- (2) A parking space shall be not less than nine feet by 20 feet, exclusive of accessways and driveways. Single-family residences need not exclude driveway area.
- (3) Off-street parking areas with a capacity for more than 20 vehicles shall delineate fire lanes and post "no parking" markers.
- (4) Any off-street parking area with at least 20 off-street parking spaces shall designate a minimum of 5% of those spaces, up to a maximum of 10 spaces, as only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall be at least 14 feet in width and 20 feet in depth.
- (5) All off-street parking spaces shall be deemed to be required space on the lot on which it is situated and shall not be encroached upon or reduced in any manner.
- (6) All parking areas, passageways and driveways (except where provided in connection with one- and two-family dwellings, or farm residences and buildings) shall be adequately drained and surfaced with a dustless, durable, all-weather surface, subject to approval of the Town Highway Superintendent.
- (7) Each off-street parking space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley, and so that any motor vehicle may be parked and unparked without moving or damaging another.
- (8) The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots may be approved by the Planning Board during site plan review, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.
- (9) No driveway to an off-street parking area shall be located closer than 50 feet to the intersection of any two streets or within 20 feet of any side lot line, provided that sufficient distance will always remain for all required radii for said driveway. The distance from the driveway to the intersection shall be measured by extending the curblines of the intersecting street until it intersects the curblines of the driveway in question, extending such driveway curblines if necessary. In addition, a minimum distance of 20 feet shall be maintained between two driveways located on any one frontage.
- (10) Except where otherwise specified in this chapter, off-street parking areas may be located

in any yard space for nonresidential uses but shall not be located closer than 30 feet to the right-of-way line of all streets and no closer than 10 feet to any other property line.

- B. Location of off-street parking facilities. Off-street parking facilities shall be located as hereinafter specified. Where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking facility to the nearest public entrance of the building that such facility is required to serve.
- (1) For one- and two-family dwellings and for all types of residential structures: on the same lot with the building they are required to serve.
 - (2) For multiple-family dwellings: not more than 200 feet from the building they are required to serve.
 - (3) For other uses: not more than 500 feet from the building they are required to serve.
- C. Screening and landscaping.
- (1) Off-street parking areas for more than five vehicles shall be effectively screened on the rear and side yards by a fence of acceptable design, unpierced masonry wall, landscaped berm or compact evergreen hedge. Such fence, wall or hedge shall not be less than six feet in height and shall be maintained in good condition.
 - (2) Except where otherwise specified in this chapter, when a parking area for five or more vehicles is within or abuts a residential district, a planted buffer area not less than 10 feet in depth shall be provided in addition to the fence or wall specified in Subsection **C(1)** above. Landscaping utilized to provide this buffer shall not be less than four feet in height at the time of planting and spaced not more than three feet apart.
- D. Lighting.
- (1) All off-street parking areas and appurtenant passageways and driveways (excluding areas serving one- and two-family dwellings and farm dwellings) shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.
 - (2) Any lights used to illuminate an off-street parking area shall be so arranged as to direct light away from all adjoining property and public or private roadways.
- E. Units of measurement.
- (1) In churches and other places of assembly in which patrons or spectators occupy benches, bleachers, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities.
 - (2) When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, any fraction of 0.25 or more shall require one parking space.
- F. Mixed occupancies and uses not specified. In any case of mixed uses, the total requirements for off-street parking facilities shall be the sum of the requirements for the various uses computed separately. In the case of a use not specifically mentioned in this section, the requirements for off-street parking facilities shall be determined by the Town Board. Off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use, except as hereinafter specified for joint use.
- G. Joint use. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point in time. If the uses, structures or parcels are under

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

H. Minimum parking standards:

- (1) One parking space is required for every three seats in a public meeting place.
- (2) One parking space is required for each employee on the maximum working shift in an industrial or light industrial establishment and one parking space per 250 square feet of gross floor area in a commercial establishment unless otherwise specified herein.
- (3) One parking space is required for every 200 square feet of gross floor area in business and professional offices.
- (4) One parking space is required for every 100 square feet of gross floor area in supermarkets and self-service food stores.

§ 350-31. Off-street loading.

- A. For every building, structure or part thereof having more than 4,000 square feet of gross building area erected and occupied for commerce and industry as well as other uses requiring the receipt and distribution of materials and merchandise by vehicles, adequate space for loading and unloading services shall be provided and permanently maintained in order to avoid undue interference with the public use of streets, alleys, or parking areas.
- B. Every building, structure or addition thereto having a use which complies with the above definition shall be provided with at least one truck standing, loading and unloading space on the premises not less than 12 feet in width, 55 feet in length, and 14 feet in height. One additional truck space of these dimensions shall be provided for every additional 20,000 square feet, or fraction thereof, of gross area in the building.

§ 350-32. Access control.

In order to encourage the sound development of street frontage, the following special regulations shall apply to all nonresidential buildings and uses:

- A. Each separate use, grouping of attached buildings or groupings of permitted uses shall not have more than two points of access.
- B. The use of common access points by two or more permitted uses shall be encouraged by the Town Board in order to reduce the number and closeness of access points along the streets and to encourage the fronting of significant traffic generating uses upon a parallel access street and not directly upon a primary road.
- C. Access points for industrial uses shall not be less than 24 feet nor more than 40 feet in width. All other access points shall not be less than 20 feet nor more than 30 feet in width.
- D. All accessways shall meet all applicable standards and requirements of the New York State Department of Transportation, Orleans County Highway Department, and Town of Barre Highway Superintendent.

§ 350-33. Fences.

- A. Fences may be erected, altered or reconstructed to a maximum height of eight feet for residential uses and 10 feet for nonresidential uses.

- B. Fences may be substituted for lot line landscaping during site plan review, at the discretion of the Planning Board.
- C. No fence shall cause obstruction of vision at street intersections.
- D. Farm fencing 10 feet in height or shorter shall be exempt from these provisions.
- E. Any fence erected along a lot line shall be erected wholly on the property of the owner and neither the fence itself nor any supporting accessory components thereof shall encroach upon the adjoining properties.
- F. A finished side of any fencing shall front the neighboring properties.

§ 350-34. Recreational vehicles.

- A. Recreational vehicles located outside of an approved campground shall not be occupied for more than 72 hours, on any basis, without the consent of the private landowner. The Code Enforcement Officer may issue a temporary use permit to occupy a recreational vehicle located outside of an approved campground for a period not to exceed 30 days in duration.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- B. No more than two recreational vehicles may be parked on any residential property at the same time.
- C. Recreational vehicles shall not be placed in the front yard of land upon which there is a dwelling.
- D. Placement of occupied recreational vehicles shall be in accordance with the setbacks required for principal buildings in the respective zone of the property.
- E. The recreational vehicle shall either have self-contained sanitation or be connected to adequate sanitation facilities.

§ 350-35. Nonconforming uses, lots and structures.

Lots, structures, uses of land, and characteristics of uses which lawfully existed at the time of the enactment of this chapter and which would be prohibited or restricted under the terms of this chapter may be continued subject to the following provisions:

- A. Intent. It is the intent of this chapter to permit nonconforming uses to continue until they are removed, but not to encourage their survival.
- B. General regulations.
 - (1) A nonconforming lot shall not be further reduced in size.
 - (2) A nonconforming building shall not be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
 - (3) A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of this chapter.
 - (4) A nonconforming use may be changed into a conforming use. When a nonconforming use is changed to conform to the requirements of this chapter, the use of the building or tract of land shall not be changed again except in accordance with this chapter.
 - (5) Where such nonconforming use is upon the land itself and not enclosed within a structure, or where such use involves the removal of soil, minerals or the excavation of gravel or rock

or other material, such use may be continued upon the land being so used at the time of the adoption hereof. Any such nonconforming use of the land may be extended or expanded to include any part of the plot or parcel of land now being used or held in reserve for future use, provided such enlargement does not involve the use of any lot excavation rights which were acquired after the effective date of this chapter. However, such extension or expansion of such nonconforming use shall comply with the setback and fencing requirements of this chapter.

- (6) Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.

C. Restoration and alterations.

- (1) A nonconforming structure damaged by fire or other causes to the extent of more than 75% of its assessed value, based upon the State Board of Equalization and Assessment rates, shall not be repaired or rebuilt except in conformity with the requirements of this chapter; except residential property owners may rebuild a home, on the same foundation area, provided that:
 - (a) The property owner provides the Code Enforcement Officer an instrument survey demonstrating that the foundation lies totally within the property boundaries.
 - (b) The owner provides evidence of applicable County Health Department approval for the new construction.
 - (c) The new construction shall be in compliance with all other applicable laws and regulations.
- (2) Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall or roof which has been declared unsafe by the Code Enforcement Officer.
- (3) Normal maintenance repairs and incidental alteration of a building or other structure containing a nonconforming use shall be permitted, provided it does not extend the area or volume of space occupied by the nonconforming use.
- (4) Any building which is nonconforming due to insufficient yard distances or lot area shall not be considered a nonconforming use. Any alterations or structural changes may be accomplished within the existing frame of said building, but any additions shall conform to the specific setback and yard distance requirements of this chapter.

D. Discontinuance.

- (1) In any district, whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished, and all future uses shall be in conformity with the provisions of this chapter.
- (2) Such discontinuance of the active and continuous operation of such nonconforming use, or part or portion thereof, for such period of one year, is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations.
- (3) If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed and all rights to reestablish or continue such nonconforming use shall thereupon terminate.

E. Existing undersized lots of record.

- (1) Any lot of record held in single and separate ownership prior to the adoption of this chapter

and whose area and/or width and/or depth are less than the minimum requirements specified herein for the district, may be considered as complying with this chapter and no variance therefor shall be required, provided that:

- (a) Such lots do not adjoin any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for the district;
 - (b) The minimum lot size of land for such nonconforming lot is at least 75 feet by 150 feet.
- (2) In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single-family dwelling.
 - (3) A lot of nonconforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property.

§ 350-36. Flag lots.

- A. Flag lots may be permitted in any district, if said lots have a width of at least 30 feet at the street line. The access portion of a flag lot shall have a minimum width of 30 feet.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- B. The area in the access portion of the flag lot shall not be used in calculating lot size.
- C. The front setback distance shall be measured from that lot line of the main part of the flag lot which is closest to the road or highway providing access.

§ 350-37. Pinball and video game arcades.

- A. Pinball and video games arcades shall not be permitted as home occupations.
- B. Arcades shall be closed between the hours of 12:00 midnight and 8:00 a.m.
- C. No one under the age of 16 shall be permitted in an arcade while school is in session.
- D. An owner or responsible person over the age of 18 shall be on the premises during all hours of operations.
Editor's Note: Original Section 609, Alternative Energy Systems, as amended 7-10-2007 by L.L. No. 2-2007, which immediately followed this section, was repealed 8-13-2008 by L.L. No. 2-2008. See now Art. XI, Wind Energy Overlay Zone.

§ 350-38. Habitation, size and width of dwellings.

- A. All residential habitation shall be in residential dwellings as defined in this chapter.
- B. No cellar sited independently of a structure shall be used exclusively as a dwelling.
- C. The minimum gross habitable floor area of any single-family dwelling shall not be less than 900 square feet.
- D. The minimum width of a dwelling, at its narrowest dimension, not including porches or patios, shall be 20 feet.
- E. The roof shall have a minimum nominal 3/12 pitch, and shall utilize a type of shingle commonly used in standard residential construction.

- F. The exterior siding shall consist of vinyl or aluminum lap siding, wood, Masonic, or other materials similar to the exterior siding commonly used in standard residential construction.
- G. Permanent landing and steps and/or ramps with handrails are required at each exterior doorway. The structure must include steps and/or ramps which lead to the ground level.
- H. The construction and installation of all structures, including seasonal dwellings, and appurtenant utilities shall conform to provisions of the New York State Uniform Fire Prevention and Building Code and all other applicable standards.

§ 350-39. Manufactured homes on individual lots.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

The following provisions apply to manufactured homes located on individual lots in residential areas, in addition to the requirements in § 350-38 above.

- A. All towing devices, wheels, axles, and hitches shall be removed.
- B. The manufactured home shall be placed on the lot in such a manner that is compatible with and reasonably similar in orientation to the site-built housing in adjacent or nearby locations.
- C. All manufactured homes shall be constructed and installed, including the anchoring system, in accordance with the New York State Uniform Fire Prevention and Building Code, the Manufactured Housing Program and the National Manufactured Housing Construction and Safety Standards (HUD Code).
- D. Excluding patios, porches and carports, no structure may be hereafter attached to any existing manufactured home, unless the manufactured home is already supported by a concrete perimeter foundation. Such structure shall also be supported by a concrete perimeter foundation.

§ 350-40. Stripping of topsoil.

The stripping and sale of topsoil shall not be allowed, except in conjunction with a permitted mining or excavation operation, or in the course of construction of any permitted structure. Excavations for the sole purpose of sale of topsoil shall not be permitted.

§ 350-41. Swimming pools.

Private swimming pools shall be permitted in any residential district, provided that there is an existing residence on said lot and the following regulations are complied with:

- A. Setbacks.
 - (1) Outdoor swimming pools shall be located in the rear or side yards and shall conform to the minimum setback requirements for a structure in the district. Aprons and decks which are accessory to a pool shall not be within the minimum setback area specified in Article V, District Regulations, of this chapter.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - (2) No swimming pool shall be closer to the street or front lot line than the front of the building or structure to which the pool is an accessory use.
- B. Drainage. No permit shall be issued for such pool unless the applicant can show that the proposed drainage of such pool is adequate and will not interfere with the property of others,

with public highways or area drainage facilities.

- C. Water supply. No permit shall be issued for such pool unless the applicant can demonstrate that there is sufficient water supply to accommodate such pool without detriment to normal water consumption requirements and that all proposed water connections are proper and adequate.
- D. Permits. Zoning permits shall be required for all swimming pools having an area greater than 100 square feet or a depth greater than 18 inches regardless of whether the pool is above or below ground.
- E. Fences and gates shall be required, pursuant to the requirements of the New York State Uniform Fire Prevention and Building Code.
- F. Ladders on all aboveground pools shall be retractable or capable of being locked during all times the owner or occupant of the premises is not present at such pool.
- G. This section does not apply to farm ponds or other natural or artificial made bodies of water located in residential areas.

§ 350-42. Satellite dish antennas.

This section is intended to provide the minimum level of control necessary to accomplish the health, safety, and aesthetic objectives of the Town.

- A. Antennas smaller than one meter in diameter shall not be subject to this section.
- B. All parabolic antennas larger than one meter in diameter shall be located on the ground at natural grade only and shall not be installed on or above any buildings.
- C. All parabolic antennas larger than one meter in diameter shall be located in rear or side yards, except they may be placed in a front yard if a two-hundred-foot setback from the front lot line can be obtained.

§ 350-43. Clear view of intersecting streets.

No obstruction to view in excess of four feet in height, measured perpendicular from the street grade, shall be maintained on any premises within the angle formed by intersecting streets within the distance of 75 feet measured along the center lines of each street from the intersection thereof. Such a clear sight triangle shall be maintained in order to ensure visibility of traffic approaching the intersection.

Article VII. Special Permit Criteria

§ 350-44. General provisions.

The uses specified in this article are hereby declared to possess unique characteristics requiring that each proposal for any such use shall be considered by the Town Planning Board as an individual case. Upon application, special use permits may be approved by the Town Planning Board and issued by the Code Enforcement Officer in accordance with the administrative procedures set forth in this chapter and only after it has found that each and all of the following standards have been met:

- A. The proposed special use is consistent with the general intent of the Town's Comprehensive

Plan and with each of the specific purposes set forth in this chapter.

- B. The location, size and use of the structures involved, nature and intensity of the operations involved and size and layout of the site in relation to the proposed special use are such that it will be compatible with the orderly development of the zoning district.
- C. Operation of the proposed special use is no more objectionable to the uses of nearby properties, by reason of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions, than would be the operation of any permitted use.
- D. The proposed special use satisfies each and all standards and conditions specified for such special use by the relevant provisions of this article.
- E. The Planning Board may impose additional conditions or restrictions as it may deem necessary prior to approving any special use permit application in order to protect public health and safety, the quality of the Town's natural resource base and the value of property.
- F. The Code Enforcement Officer shall make an on-site visit to each property authorized as a special use not less than one time each year. The purpose of said site visit is to insure that the use is being operated in accord with the conditions specified by the Planning Board. If the Code Enforcement Officer shall determine that a violation of this chapter or the conditions imposed by the Planning Board exists, the owner and, if applicable, operator of such special use shall be notified, in writing, of the violation. If such violation continues to exist 15 days following such notification, or if three violations occur within a consecutive twelve-month period, the certificate of occupancy and/or certificate of compliance shall be null and void. A new special use permit application shall be required to be submitted and approved prior to the reestablishment of said use.
- G. No site preparation or construction shall commence nor shall existing structures be occupied for any special permit use until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.

§ 350-45. Airports.

The Town Planning Board may approve a special use permit for private or commercial airports or airstrips in the AR Agricultural/Residential District, provided the following standards and provisions are maintained:

- A. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for special use permits outlined in Article IX, the following statements and information:
 - (1) Name and address of the proponent.
 - (2) Classification of the proposed airport, such as commercial or restricted.
 - (3) Number and type of aircraft expected to be based at the airport initially and within five years.
 - (4) Whether an instrument approach procedure will be offered.
 - (5) Statement as to the anticipated number of daily operations.
 - (6) Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
 - (7) A copy of the New York State Commissioner of Transportation's determination that the airport is in compliance with the provisions of § 249 of the New York State General

Business Law.

- (8) A site plan of the airport which includes the following, in addition to the requirements listed in Article X:
- (a) Scale no smaller than one inch equals 100 feet.
 - (b) Location of all existing and proposed structures.
 - (c) Alignment of existing and/or proposed runways shown in their exact location.
 - (d) Location of aircraft parking and tie-down areas.
 - (e) Provision for vehicular access and off-street parking.
 - (f) Provisions for sanitary waste disposal and water supply, if applicable.
 - (g) Location and method of all fuel storage facilities.
- (9) An area map at a scale of no less than one inch equals 500 feet showing:
- (a) Distances to power lines, or other possible obstructions, within 2,000 feet of the ends of runways shall be accurately plotted.
 - (b) Properties within 500 feet shall be plotted and owners identified by name.
- B. The Planning Board may, at its discretion, exclude from the requirements of Subsection **A(8)** above, any private airport established, constructed or maintained by an individual on his property for his personal or hobby use; provided, however, that the following conditions are met:
- (1) The average number of hours that the airport is in use each week does not exceed 12 hours.
 - (2) The individual owns no more than three planes, none of which is designed to accommodate more than six persons, including the pilot.
 - (3) The airport is not utilized for any industrial or commercial purposes.
 - (4) The Planning Board may, at its discretion, require the applicant to submit proof that the requirements of § 249 of the General Business Law are otherwise complied with, depending on the proximity of the proposed airport to highways and other airports.
- C. The Planning Board, in considering a request for a special use permit or the extension of a permit to operate an airstrip, may impose any conditions it deems necessary to protect the health, safety and public welfare of the Town.

§ 350-46. Animal hospital.

The Planning Board may approve a special permit for an animal hospital in the AR Agricultural/Residential District, or for an animal hospital with outdoor runs in the B General Business District, provided that the following standards and provisions are maintained:

- A. Minimum lot size shall be two acres.
- B. Exercise pens and runways shall not be permitted within 100 feet of any lot line.
- C. All animal hospital facilities shall be maintained in enclosed structures which shall be of soundproof construction and so maintained as to produce no dust or odors at the property line.
- D. Hours of operation (those hours when dogs are brought to and from the establishment and

when dogs are allowed out of cages) shall be limited to 7:00 a.m. to 8:00 p.m.

§ 350-47. Bed-and-breakfast establishment.

The Planning Board may approve the use of a residential structure for a tourist home/bed-and-breakfast establishment in the AR, R-1 or B District, provided that the following standards and provisions are maintained:

- A. The building proposed for occupancy as a bed-and-breakfast establishment shall contain no more than four lodging rooms for hire.
- B. The operator of the bed-and-breakfast establishment shall reside on the premises.
- C. The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations.
- D. Outbuildings detached from the principal dwellings shall not be used for the purpose of a bed-and-breakfast establishment.
- E. A minimum of one off-street parking space shall be provided for each rental unit, in addition to the two spaces required for a single-family dwelling. No such parking space shall be located in the front yard area and each space shall not be less than nine feet by 20 feet.
- F. The dwelling may display a sign not to exceed two feet by two feet in size.
- G. No bed-and-breakfast establishment shall be permitted where access is provided by a shared driveway.
- H. No bed-and-breakfast establishment shall be permitted in an individual mobile home or mobile home park.
- I. Each rental unit in a bed-and-breakfast establishment shall maintain a working smoke detector.
- J. Such uses shall comply in full with the Orleans County Sanitary Code and the New York State Uniform Fire Prevention and Building Code.

§ 350-48. Camping grounds.

The Planning Board may approve a special use permit for camping grounds in the Agricultural/Residential (AR) District, provided that the following standards and provisions are maintained:

- A. Camping grounds shall be occupied only by travel trailers, pickup coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation and recreation purposes. No permanent external appurtenances such as carports, cabanas or patios may be attached to any travel trailer or other vehicular accommodation parked in a campground. The removal of wheels and placement of a unit on a permanent frost-free foundation in a camping ground is prohibited.
- B. Minimum site area: 10 acres.
- C. Minimum sizes for individual campsites: 25 feet by 80 feet to accommodate areas with travel trailers and campers; and 25 feet by 50 feet for areas to be occupied exclusively with tents.
- D. Not more than 10 travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.

- E. A camping ground shall be so located that no entrance or exits from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camping ground shall have a minimum of 150 feet of frontage on a public street.
- F. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. Natural vegetation shall be retained wherever possible. The site shall not be exposed to objectionable smoke, noise, odors, or to other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- G. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions.
 - (1) Such establishments and the parking areas primarily related to their operations shall not occupy more than 5% of the gross area of the camping ground. Such establishments shall be restricted in their use to occupants of the camping ground.
 - (2) Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
 - (3) The structures housing such facilities shall not be directly accessible from any public street, and shall only be accessible from a street within the camping ground.
- H. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.
- I. Streets.
 - (1) Streets in camping grounds shall be private, but shall be constructed with a stabilized travelway and shall meet the following minimum stabilized travelway width requirement:
 - (a) One way with no parking on either side: 12 feet.
 - (b) One way with parking on one side: 24 feet.
 - (c) Two way with no parking on either side: 24 feet.
 - (d) Two way with parking on one side: 36 feet.
 - (e) Two way with parking on both sides: 48 feet.
 - (2) All roadways and public parking areas shall either be paved or dust treated.
- J. Recreation facilities. A minimum of 8% of the gross site area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting recreational purposes.
- K. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended. Road curbs shall have a minimum radius of 50 feet and shall be designed for drive-through campsite parking.

- L. An adequate lighting system shall be provided for the camping ground. Pedestrian walkways shall be provided to lead to all parking areas, rest rooms or other service buildings. All walkways shall have adequate lighting.
- M. All utilities shall be underground.
- N. Not less than one covered twenty-gallon garbage receptacle shall be provided for each campsite. No campsite shall be situated further than 100 feet from a garbage receptacle. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- O. All applicable sanitation standards promulgated by the State of New York, County of Orleans, or Town of Barre shall be met.
- P. Setbacks. Each building or structure within a camping ground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes, and the motor vehicles propelling or carrying the same may be located not closer than 25 feet to any side or rear lot line nor closer than 60 feet to any front lot line.
- Q. Campsites and buildings shall be set back not less than 50 feet from any stream which carries water more than six weeks per year.

§ 350-49. Cluster residential developments.

The Planning Board may approve a special use permit for cluster residential developments of one-family dwellings in the AR Agricultural/Residential Districts and in the R-1 Residential District, provided that the following standards and provisions are maintained:

- A. A site development plan shall be submitted in conformance with the requirements of Article X of this chapter.
- B. The minimum tract size shall be 15 acres.
- C. The lot size, yard, area and height requirements shall be established on an individual case basis which reflects the unique conditions of each site proposed for development, the potential impact on adjacent properties and to insure consistency with the Town Comprehensive Plan.
- D. The number of lots or units (density of development) in a cluster plan shall not exceed that which could be created under a conventional development plan for the same tract of land.
- E. The developers shall set aside an area of not less than 20% of the gross acreage of the tract to be devoted exclusively to permanent recreation areas or open space.
- F. All recreation or open space areas shall, in the opinion of the Planning Board, be suitable for such use. The ownership and future maintenance of such recreation areas shall be subject to the approval of the Town Board or offered for dedication to the Town.
- G. In determining the overall density to be allowed for a residential site, all areas of the site will be included.

§ 350-50. Conference/resort complex.

The Planning Board may approve a special use permit for a conference/resort complex in the AR Agricultural/Residential District provided that the following standards and provisions are maintained:

- A. All applicable health and safety codes, including provisions of the New York State Fire

Prevention and Building Code, are met.

- B. The maximum amount of coverage of buildings and paved areas on the lot shall not exceed 15% of the lot area.
- C. Landscaped buffers shall be provided, which are sufficient to screen views of the facility from neighboring property and to minimize the impacts of noise, traffic and other operations of the facility on neighboring property, roads and other public facilities.

§ 350-51. Drive-in business.

The Planning Board may approve a special use permit for a drive-in business in the B General Business District, provided that the following standards and provisions are maintained:

- A. The following information shall be submitted as part of the application for site plan approval and for a special use permit for a drive-in business, in addition to that information required in other sections of this chapter.
 - (1) The location and dimensions of all structures, including buildings, screened trash areas, fencing and lighting (show direction and level of illumination).
 - (2) The locations and dimensions of all off-street parking areas and driveways.
 - (3) Proposed landscaping of site.
- B. All drive-in businesses shall be a minimum of 200 feet from other such businesses, which distances shall be computed as follows:
 - (1) For such businesses on the same side of the street, 200 feet measured between the two closest property lines.
 - (2) For such businesses on opposite sides of the street, 200 feet measured diagonally between the two closest property corners.
 - (3) For four-corner intersections, one such business may be located on a diagonally opposite corner exclusive of the two-hundred-foot distance requirement.
- C. Banks with drive-in facilities shall be permitted, provided that at least five car-length spaces are provided in the approach drive within the property line of the lot for each drive-in teller's window. Such spaces shall be exclusive of required off-street parking spaces.
- D. All drive-in businesses shall provide suitable storage of trash in areas which are so designated and constructed as to allow no view of the trash storage from the street, to prevent wastepaper from blowing around the site or adjacent properties or public rights-of-way, and to permit safe, easy removal of trash by truck or hand.
- E. The minimum distance from any driveway to a side lot line shall be 20 feet.
- F. The minimum distance between driveways on the site shall be 50 feet measured from the two closest driveway curbs.
- G. The minimum distance into the site from a street intersection shall be 30 feet measured from the intersection of the street right-of-way to the nearest end of the curb radius.
- H. Drive-in businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
- I. Exterior lighting proposed for the site shall be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public rights-of-way. The light source shall not be higher than 20 feet.

- J. Sufficient landscaping and fencing shall be provided in order to minimize visual impacts and minimize conflicts with adjacent land uses.
- K. Water supply and sewage disposal systems shall be reviewed by the Orleans County Health Department.
- L. Any outdoor eating area associated with a drive-in restaurant shall be maintained, landscaped and physically separated from any off-street parking area or driveway. Outdoor eating shall be allowed only if all parking and vehicular travel areas have a dust-free (paved) surface.

§ 350-52. Essential services and utilities.

Essential services and utilities may be allowed as special permit uses in all districts by the Planning Board. The Planning Board shall determine the following prior to approving a special permit:

- A. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.
- B. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
- D. Adequate and attractive fences and other safety devices will be provided.
- E. Adequate off-street parking shall be provided.
- F. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground, if practical, as determined by the Planning Board during site plan review.
- G. All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- H. All major electrical transformer facilities or substations, if above ground, shall be secured by an outer and inner fence, each 10 feet from each other at any point; also no transformer or associated switches shall be closer than 100 feet from any lot line.

§ 350-53. Farm market.

The Planning Board may approve a special use permit for farm markets in the AR Agricultural/Residential Districts, provided that the following standards and provisions are maintained:

- A. Such structures shall not exceed 2,000 square feet of floor area.
- B. Not more than 1/3 of the total floor area shall be for the display and sale of products grown off the premises.
- C. Such structures shall conform to the minimum setback requirements for accessory buildings in this district as specified in Article V, District Regulations, of this chapter.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- D. Sufficient land area shall be provided to accommodate off-street parking for not less than three vehicles on site.

§ 350-54. Home occupations.

The Planning Board may approve a special use permit for home occupations in the AR Agricultural/Residential and in the R-1 Residential Districts, provided that the following standards and provisions are maintained:

- A. The type of business allowed as an in-home occupation includes, but is not limited to:
 - (1) Professional or business office.
 - (2) Beauty shop or barbershop.
 - (3) Family day care for no more than six children at any one time.
 - (4) Other similar business as determined by the Zoning Board of Appeals.
- B. The business shall be owned and operated by the occupant of the residential structure.
- C. A total of at least four parking spaces shall be provided. Such parking shall be provided off the street and other than in a required front yard.
- D. No more than three persons, other than members of the immediate family occupying such dwelling, shall be employed as part of the home occupation or home professional occupation.
- E. A home occupation or home professional occupation must be conducted within a dwelling which is bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use. Such home occupations may occupy either up to 30% of the gross floor area of the residence to be used for the conduct of the home occupation or up to 40% of the floor area of an accessory structure but not both.
- F. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises or vibrations.
- G. No outdoor display of goods or outside storage of equipment or materials used in the home occupation or profession shall be permitted.
- H. No sign shall be permitted except in accordance with the provisions of § 350-29.
- I. Off-street parking shall be provided in accordance with § 350-30.
- J. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- K. Only one commercial-type vehicle may be used in connection with the home occupation.
- L. Not more than one home occupation or profession shall be permitted for each residential property.

§ 350-55. Junkyards, auto wrecking and dismantling yards.

The Planning Board may approve a special use permit for a junkyard, auto wrecking and dismantling yard in the LI Light Industrial District, provided the following standards and provisions are maintained:

- A. The provision of the State Junkyard Law (General Municipal Law § 136, as amended) are

hereby adopted by reference and shall apply to all junkyards as defined in this chapter. The expansion or alteration of existing junkyards shall also be governed by the provisions of this section.

- B. Minimum dimensional requirements:
 - (1) Minimum lot size: five acres.
 - (2) Maximum lot size: 15 acres.
 - (3) Minimum lot width: 300 feet.
 - (4) Minimum front, side and rear setbacks: 100 feet.
- C. A junkyard shall be completely surrounded with a solid fence at least eight feet in height which completely obscures the junkyard from public view and with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be present. Such fence shall be erected no nearer than the required setbacks.
- D. All junk stored or deposited by the operator shall be kept within the enclosure of the junkyard except as removal shall be necessary for the transportation of same in the reasonable course of business.
- E. All vehicles or engines stored in the yard shall first be drained of any oil, gasoline or other fluids. Such fluids shall be safely stored and disposed of off site.
- F. There shall be no storage or stockpiling of tires or batteries except within an enclosed building.
- G. Direct sales to the general public shall be confined to an enclosed building located on the site except for the sale of reconditioned motor vehicles. Said motor vehicles may be displayed in a defined area outside of the fenced junkyard portion but on the subject parcel. A minimum area of 200 square feet shall be required for each motor vehicle displayed for sale.
- H. No motor vehicle or dismantled parts may be stored within 100 feet of the bed of a stream carrying water on an average of six months of the year.
- I. Off-street parking shall be in accordance with § **350-30** of this chapter.
- J. A performance bond shall be submitted in an amount determined by the Planning Board as sufficient to cover the cost of required fencing, restoration of property, and Planning Board review.
- K. Special permits granted pursuant to this section shall be inspected annually.

§ 350-56. Kennels.

The Planning Board may approve a special use permit for kennels in the AR Agricultural/Residential District and the B General Business District, provided that the following standards and provisions are maintained:

- A. The lot size shall be adequate to accommodate the number of animals proposed to be housed at site. The Planning Board shall specify a minimum lot size on a case-by-case basis.
- B. The Planning Board may require fencing or suitable enclosure for facilities located outside the building and, in addition, may require buffer landscaping to create a visual, sound and smell buffer between such facilities and adjacent properties.
- C. The Planning Board shall specify the minimum lot size, setbacks for shelter, and kennel outdoor runs for the animals.

- D. Adequate provisions shall be made for disposing of animal waste.
- E. Noise and odors shall not become a nuisance to adjacent property owners.
- F. In issuing the special use for kennels the Planning Board shall specify the maximum number and types of animals to be housed, boarded or trained.
- G. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.

§ 350-57. Manufactured home park.

- A. The Planning Board may approve a special use permit for manufactured home parks in the AR Agricultural/Residential District, R-1 Residential District, and the B General Business District, provided that the following standards and provisions are maintained:
 - (1) The minimum site area of proposed manufactured home parks shall not be less than 20 acres.
 - (2) Individual manufactured home lots shall have an area of not less than 7,500 square feet. Each individual lot shall front on an interior park roadway and have a minimum width of 75 feet.
 - (3) Setbacks for individual manufactured home lots.
 - (a) Minimum front setback: 20 feet.
 - (b) Minimum side setback: 20 feet.
 - (c) Minimum rear setback: 10 feet.
 - (4) The minimum setbacks of every manufactured home, building or other structure in a park from the nearest public street line shall be 70 feet, and from every other lot line of the park shall be 40 feet.
 - (5) Not more than one manufactured home shall be located on any one individual lot. Every manufactured home within a park shall be located on a manufactured home lot shown on the approved site plan for said park.
 - (6) At least one framed service building shall be constructed in each manufactured home park which shall be adequate to provide for storage of all equipment, tools and materials necessary for the maintenance of the park, and all such equipment, tools, and materials shall be stored within said building when they are not in use.
 - (7) Each individual lot shall have not less than two off-street parking spaces. Such parking spaces shall be connected to the entrance of the manufactured home by a paved sidewalk having a minimum width of 36 inches.
 - (8) No boats, campers, travel trailers, recreational vehicles, or unregistered and unregistered motor vehicles shall be parked or stored at any place within a manufactured home park except in areas designated and approved for such storage as part of the site plan approval.
 - (9) Every travel lane and parking lane within a manufactured home park shall have a minimum pavement width of 12 feet, and each roadway shall have a minimum right-of-way width of 50 feet. If culs-de-sac exist, they shall have a minimum diameter of 80 feet.
 - (10) A complete water distribution system approved by the Orleans County Health Department and other appropriate agencies, including a water service pipe for each manufactured home lot and appropriately spaced fire hydrants, shall be installed.

- (11) A public sanitary sewage disposal system approved by the Orleans County Health Department and other appropriate agencies shall be installed, including a sewer connection for each manufactured home lot.
- (12) All public utility, electric, gas, cable television and telephone lines shall be installed underground.
- (13) Appropriate lighting shall be installed on interior roadways with the minimum number of lights being one light for each house or lot and one light at each intersection of interior roadways.
- (14) Pedestrian walkways, if provided, shall be a minimum of five feet in width.
- (15) A landscape plan shall be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- (16) No manufactured home shall be located on a manufactured home lot until the roadways, sanitary sewage disposal system, water supply system, storm drainage system, streetlighting, landscaping, recreation areas, framed service buildings, and accessory vehicular storage buildings serving the manufactured home park have been installed in accordance with the approved site plan for the park.
- (17) Each roadway shall be named and noted upon signs at each roadway intersection. Each manufactured home lot shall be assigned a permanent number which shall be noted on the manufactured home lot in a location clearly visible from the roadway.
- (18) All fuel tanks used for heating within a manufactured home park, including all fuel tanks used for heating within individual homes, shall be installed in accordance with NFPA standards.
- (19) Every manufactured home park shall have a recreational area or open space area for use by the occupants of the park. Such areas shall be appropriately located as the topography and design of the park permit. Such areas shall not be less than one acre for the first 20 manufactured home lots, with an additional 1,000 square feet provided for each additional manufactured home lot.
- (20) The park owner/operator shall provide for the regular collection and disposal of garbage, trash, and rubbish for all residents of the park.
- (21) No more than one accessory building shall be permitted on any individual manufactured home lot.
- (22) Each manufactured home shall be enclosed at the bottom with a fire-resistant, properly maintained, stable, and enclosed skirt within 30 days after the placement of the home on the lot.
- (23) No enclosure or addition, with the exception of carports, door porches, and patios, shall be constructed on, added to, or attached to the exterior of any manufactured home.
- (24) No manufactured home shall be offered for sale, displayed for sale, or sold within a park unless such manufactured home is located on an individual manufactured home lot and is connected to electric, sewer and water services.
- (25) Every roadway within a manufactured home park shall be maintained in good repair and shall be open at all times reasonably possible for travel by occupants of the park and necessary fire, police, ambulance, public utility maintenance and fuel supply vehicles. The park owner/operator shall be responsible for providing and paying the cost of such maintenance and for all necessary snow removal.

- (26) Sale of lots. Any sale of a manufactured home lot or lots, or a portion of a manufactured home park, other than the entire manufactured home park, as shown on the plan of such park approved by the Town, shall thereupon immediately invalidate the special permit for such park approved by the Planning Board. Any use of any of the premises within the manufactured home park other than as a manufactured home park shall thereupon immediately invalidate the special permit of such park approved by the Planning Board.
- (27) Home occupations. Home occupations or businesses shall not be permitted in any individual manufactured home located within a park.

§ 350-58. Motor vehicle, boat or manufactured home sales.

The Planning Board may approve a special use permit for the sales of motor vehicles, boats or manufactured homes in the General Business (B) District, provided that the following standards and provisions are maintained:

- A. Such sales may be conducted either in a fully enclosed building located on the same lot or in an unenclosed area.
- (1) If such sales are conducted in a fully enclosed building located on the same lot, such building shall have a building area of not less than 5,000 square feet devoted to the sale and service of automobiles or boats.
 - (2) If sale of new and/or used automobiles, boats or manufactured housing is carried on in an unenclosed area, the following standards shall be maintained:
 - (a) Such unenclosed area used for the storage of automobiles or boats, or traversed by motor vehicles, shall be paved, shall be suitably drained, and shall be maintained in a neat and orderly manner.
 - (b) All exterior illumination shall be approved by the Planning Board and shall be shielded from the view of all surrounding properties and streets.
 - (c) Suitable landscaping and/or fencing of such unenclosed area shall be required.
 - (d) No establishment for the sale of new and used automobiles, boats or manufactured housing shall be opened, conducted, or maintained except as provided above. None of the provisions of this section, however, shall be deemed to prohibit the continuance of the present use of any property for the sale of new and used automobiles, boats, or manufactured housing, provided that any such continued use shall be subject to all of the provisions of this section. Plans for any changes required to bring about such conformance shall be submitted to and approved by the Planning Board before any such change shall be made. The Planning Board may approve, modify, or disapprove such plans and may impose reasonable and appropriate conditions to such approval so that the spirit of this chapter shall be observed.
- B. Minimum specifications.
- (1) Front setback: 75 feet.
 - (2) Side setback: 30 feet.
 - (3) Rear setback: 30 feet.
 - (4) Lot width: 200 feet.
 - (5) Lot size: one acre.
- C. No vehicles shall be displayed for sale or rent within 35 feet of the front property line, or within

25 feet of any side or rear property line. No manufactured homes shall be displayed within any required building setback. The maximum coverage for buildings shall apply to manufactured homes for sale, in addition to buildings used in the conduct of such sales.

- D. No retail sale of fuels shall occur on the site at any time.
- E. All signage shall comply with § **350-29** of this chapter.
- F. No exterior light source shall be erected in excess of 50 feet above the ground surface, and all lighting shall be placed to eliminate the casting of direct light or glare upon adjacent properties.
- G. Repair of motor vehicles on site is prohibited unless the provisions found in § **350-59**, Motor vehicle service stations and auto repair shops, of this chapter are complied with in full.

§ 350-59. Motor vehicle service stations and auto repair shops.

The Planning Board may approve a special use permit for motor vehicle service stations and auto repair shops in the B General Business District, provided that the following standards and conditions are maintained:

- A. In addition to the information required in the special permit and site plan review applications and enumerated in Articles **X** and **XI** herein, the site plan submitted shall also show the location and number of fuel tanks to be installed, the dimensions and capacity of each storage tank, the depth the tanks will be placed below the ground, and number and location of fuel pumps to be installed.
- B. Such uses shall be screened from adjacent uses by a buffer area not less than 10 feet in depth composed of densely planted evergreen shrubbery, solid fencing, or a combination of both which, in the opinion of the Planning Board, will be adequate to prevent the transmission of headlight glare across the property line. The Planning Board shall determine on an individual case basis how close to the right-of-way the landscaped buffer shall be required to be installed. Such buffer screen shall have a minimum height of six feet above the ground. If said shrubbery becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer shall direct the property owner to replace said shrubs.
- C. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- D. All repairs of motor vehicles, except for minor servicing, shall be performed in a fully enclosed building. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed building.
- E. No commercial parking shall be allowed on the premises of a motor vehicle service station or auto repair shop.
- F. Accessory goods for sale may be displayed on the pump island and the building island only. The outdoor display of oil cans and/or antifreeze and similar products may be displayed on the respective island if provided for in a suitable stand or rack.
- G. No accessory building or structure, including gasoline pump or automotive service appliances, shall be erected within 40 feet of any street line.
- H. No motor vehicle service station or auto repair shop may display more than four unregistered vehicles for sale or repair outside of an enclosed building at any one time. All licensed motor vehicles being serviced or repaired shall be stored in a neat, orderly manner.
- I. No motor vehicle service station or auto repair shop shall have more than two driveways on any public street fronting the site. The driveway width on any street shall not exceed 1/3 of the total site frontage on each street.

- J. No driveway shall be closer than 50 feet to the intersection of two street lines or within 20 feet of an adjacent lot line.
- K. No motor vehicle service station or auto repair shop and no driveway to any such use shall be established within 200 feet of the boundary line of the R-1 Residential District, or of any school, church, park, playground, public library, or any place of public assembly designed for occupancy by 50 persons or more, regardless of the district where the subject premises are located. For the purposes of this section, the distance shall be measured along the street line on the side of the street where such use is proposed or such driveway would cross.

§ 350-60. Multiple-family dwellings.

The Planning Board may approve a special use permit for multiple-family developments in the B General Business District, provided that the following standards and provisions are maintained:

- A. The maximum gross density shall not exceed eight units per acre.
- B. Minimum habitable floor area requirements:
 - (1) Townhouse units with two bedrooms or less: 850 square feet.
 - (2) Townhouse units with three bedrooms or more: 1,000 square feet.
 - (3) Efficiency apartment unit: 450 square feet.
 - (4) Apartment unit with one bedroom: 550 square feet.
 - (5) Apartment unit with two bedrooms: 700 square feet.
 - (6) Apartment unit with three bedrooms: 900 square feet.
- C. Unit distribution.
 - (1) No more than 30% of the total units within a multiple-family dwelling development shall be three or more bedroom units.
 - (2) No more than 30% of the total units within a multiple-family dwelling development shall be efficiency units.
- D. Setback requirements.
 - (1) The minimum front setback from the right-of-way of any public street shall be 75 feet.
 - (2) The side and rear setbacks shall be 50 feet from all other lot lines.
 - (3) Minimum distance between buildings in a multiple-family dwelling development shall be 60 feet.
 - (4) Direct line of sight visibility from one building to another shall not be less than 100 feet.
 - (5) Every building shall have a minimum setback of 25 feet from all interior roads, driveways and parking areas.
 - (6) A strip of land at least six feet in width surrounding each building shall be kept completely open except for foundation plantings of less than six feet in height.
 - (7) Courtyards bounded on three sides by the wings of a single building or by the walls of separate buildings shall have a minimum court width of two feet for each one foot in height of the tallest adjacent building.
- E. No exterior wall shall exceed 100 feet in length unless there is a lateral offset of at least eight

feet in its alignment not less frequently than along each 100 feet of length of such exterior wall.

- F. All stairways to the second floor or higher shall be located inside the building.
- G. Access to public road.
 - (1) All multiple-family dwelling developments shall have direct access to public roads.
 - (2) If there are more than 12 dwelling units in a multiple-family development, direct access shall be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
 - (3) If there are more than 50 dwelling units in a multiple-family development, or if in the opinion of the Planning Board the location or topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.
- H. Requirements for off-street parking as provided in § 350-30 of this chapter shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking areas to all living units each parking area is intended to serve.
- I. Off-street parking shall be provided in the amount of two spaces for each unit.
- J. The aggregate of building coverage of a multiple-family dwelling development shall not exceed 30% of the total lot area.
- K. Services.
 - (1) Each dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.
 - (2) There shall be a minimum common storage area in each building for bicycles, perambulators and similar type equipment of 40 square feet in area, a minimum of five feet in height and not less than four feet in width per dwelling unit.
 - (3) Sufficient laundry, drying, garbage pickup and other utility areas shall be provided and shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls or shrubbery of at least six feet in height around the perimeter. Fencing and walls shall be not more than 50% open on the vertical surface.
- L. Recreation, open space, maintenance.
 - (1) Multiple-family dwelling complexes shall be designed to create usable private open space. A minimum of 10% of the total tract area, exclusive of the required setback areas, buffer strip and parking areas, shall be designated for common recreational purposes.
 - (2) No recreational area shall be less than 10,000 square feet in area nor less than 100 feet in width. Areas designated for recreation purposes shall be approved by the Planning Board.
 - (3) Multiple-family dwelling complexes shall be attractively shrubbed and properly maintained. Open space adjacent to, around, or between driveways, parking areas, structures or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material.
- M. Utilities.
 - (1) All public utility, electric, gas, cable television and telephone lines shall be installed underground.

- (2) Multiple-family developments shall be connected to and served by public water supply and sanitary sewer systems. Such systems shall be approved by the Orleans County Health Department and other applicable agencies.

§ 350-61. Public and semipublic buildings and grounds.

The Planning Board may approve a special use permit for public and semipublic uses of an institutional, health, educational, recreational, religious or cultural nature in any zoning district, provided that the following standards and provisions are maintained:

A. Day-care centers.

- (1) All day-care centers shall have an active outdoor play area of 100 square feet per child.
- (2) Outdoor play areas shall be appropriately fenced in or otherwise protected from roads and nearby properties.
- (3) No outdoor play equipment may be placed within 10 feet of any property line, fence, or structure.
- (4) Minimum parking shall be one space per staff member, plus one space per each five children.
- (5) The operator shall have a valid license from New York State.

B. All other public and semipublic uses.

- (1) The application shall include a statement setting forth the details of the operation of the use.
- (2) The applicant shall provide evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.
- (3) The proposal shall meet the minimum area and yard requirements for such uses as specified in Article V, District Regulations, of this chapter.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- (4) The proposed use shall meet the minimum off-street parking and loading and unloading requirements of this chapter as well as provisions for landscaping, buffering, signs and accessways.
- (5) The Planning Board, in considering the request for a special use permit, may impose conditions it deems necessary to protect the health, safety and public welfare of the Town.

§ 350-62. Stables or riding academies.

The Planning Board may approve a special use permit for the use of land and buildings for stables for the commercial boarding of horses or riding academies in the AR Agricultural/Residential District, provided that the following standards and provisions are maintained:

- A. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- B. The permitted use may include any of the following:
 - (1) Storage of horse vans for conveying or vanning of horses as may be accessory to the

principal use.

- (2) Sale or rental of horses for use by public by the hour, day, month or year.
 - (3) Rides on horses by the public.
 - (4) Rental of horse vans.
 - (5) Riding lessons to the public.
 - (6) Sale of horse supplies and/or equipment.
- C. The land devoted to this use shall not be less than 10 contiguous acres.
- D. One principal single-family dwelling may be located on the land devoted to this use, provided that it complies with the requirements for this chapter. The land area on which the principal single-family dwelling is located (minimum lot size of AR District) shall not be considered as part of the land devoted to this use as set forth in Subsection **C** above.
- E. The number of horses that may be boarded and/or trained at such property shall not exceed 25 horses for the first 10 acres of land devoted to this use, plus one horse for each additional 1/2 acre of land available for such purpose.
- F. The stable shall be located not less than 100 feet from any boundary line. The storage of manure shall be located on land not less than 200 feet from any boundary line. The Planning Board may require manure storage areas to be screened and/or buffered from adjacent areas.
- G. Any riding ring shall be at least 50 feet from any boundary line.
- H. Accessory buildings, such as barns (not housing horses), sheds and the like, may be located on the land devoted to this use, provided that they are set back a minimum of 50 feet from the street line and from each boundary, and provided further that they are not used for the storage of manure.
- I. Structures on the land devoted to this use (not including the principal dwelling) shall not be in the aggregate cover more than 5% of the area of the land devoted to this use.
- J. No structure shall exceed 35 feet in height.
- K. Suitable and adequate off-street parking shall be provided in accordance with the requirements established by this chapter and the Planning Board.
- L. Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property.
- M. The installation and use of exterior loudspeakers shall be conducted in such a manner as to minimize potential nuisances to adjacent properties.

§ 350-63. Telecommunications facility.

The Planning Board may approve a special use permit for the use of land and buildings for a telecommunications facility in the AR Agricultural/Residential District or the LI Light Industrial District, provided that the following standards and provisions are maintained:

- A. Purpose. The purpose of these supplemental regulations is to promote health, safety, and the general welfare of the residents of the Town of Barre; to provide standards for safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total 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; and

to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

B. General criteria. No special use permit or renewal thereof or modification of a current special use permit relating to a telecommunications facility shall be authorized by the Planning Board unless it finds that such telecommunications facility:

- (1) Is necessary to meet current or expected demands for service;
- (2) Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
- (3) Is designed and constructed in a manner which minimizes visual impact to the extent practical;
- (4) Complies with all other requirements of this chapter, unless expressly superseded herein;
- (5) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility;
- (6) 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 special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

C. Co-location.

- (1) The shared use of existing telecommunications facilities or other structures shall be preferred to the construction of new facilities. Any special permit applications, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing telecommunications facility or upon an existing structure. The application shall include an adequate inventory report specifying existing telecommunications facility sites and structures exceeding 75% of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use 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 or more of the following reasons:
 - (a) The planned equipment would exceed the structural capacity of existing and approved telecommunications facilities or other structures, considering existing and planned use 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 other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
 - (d) Other technical reasons make it impracticable 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 co-location.

D. Dimensional standards.

- (1) A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any antenna(s) attached upon its zenith. The entire fall zone may not include public roads and must be located on 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. If the facility is attached to an existing structure, relief may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.
- (2) All telecommunications facilities shall be located on a single parcel.
- (3) All telecommunications facilities shall comply with the setback standards of the underlying zoning district. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. 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 nonconforming lot.
- (4) The frontage requirement of the underlying zoning district shall not apply, provided the telecommunications facility is not proposed on a parcel to be partitioned specifically for the facility and/or is designed for occupancy by staff. In the absence of required frontage, an access for service vehicles, either through easement, lease or ownership, shall be in accord with Subsection **G** herein.

E. Lighting and marking.

- (1) Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
- (2) Notwithstanding the preceding Subsection **E(1)**, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.

F. Appearance and buffering.

- (1) 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, and balloons is prohibited.
- (2) The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking, pursuant to Subsection **E(1)** and **(2)** herein, shall otherwise:
 - (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 Planning 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.
- (3) Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
- (4) The Planning Board may require a state environmental quality review (SEQR) full EAF (environmental assessment form) for proposed facilities at key viewpoints in the community. A visual environmental assessment form (visual EAF) may be required as an addendum to either the full or short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the visual EAF.
- (5) The Planning Board shall require that the facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation.

The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.

- (6) Equipment or vehicles not used in direct support, renovations, additions or repair of any telecommunications facility shall not be stored or parked on the facility site.

G. Access and parking.

- (1) Accessways shall make maximum use of existing public or private roads to the extent practicable. New accessways constructed solely for telecommunications facilities must be at least 20 feet, but no more than 30 feet wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (2) The road surface (driveways) shall be centered within accessways and shall not comprise more than 60% 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.

H. Security.

- (1) Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight feet in height, the top foot of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three strands of barbed wire to discourage unauthorized access to the site.
- (2) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
- (3) There shall be no permanent climbing pegs within 15 feet off 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) Site plans for all telecommunications facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards, including, but not limited to, the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- (2) Every facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the Municipal Code Enforcement Officer.
- (3) A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by federal regulations.
- (4) The municipality, at the expense of the applicant, may employ its own consulting assistance to review the findings and conclusions of safety analysis, visual analysis, or structural inspection provided by the applicant.

J. Removal.

- (1) At the time of submittal of the application of a special use permit for a telecommunications facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a telecommunications facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 12 consecutive months. Upon removal of said facility, the land shall be restored to its previous condition, including, but not limited to, the seeding of exposed soils.
- (2) At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the telecommunications facility and property restoration, with the municipality as the assignee, in an amount approved by the Planning Board, but not less than \$100,000.
- (3) At time of renewal or modification of the special use permit, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the telecommunications facility and property restoration.

§ 350-64. Adult bookstores and adult entertainment establishments.

Adult bookstores and adult entertainment establishments, as defined herein, may be approved in the LI Light Industrial District by the Town Planning Board following a public hearing and provided that the standards and provisions specified below are maintained:

A. Purpose.

- (1) In the execution of this chapter it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood or land uses.
- (2) It is further declared that the location of adult bookstores or adult entertainment establishments in areas where youth may regularly assemble, and the general atmosphere encompassing their operations, is of great concern to the Town of Barre.
- (3) These special regulations are intended to accomplish the primary purpose of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

B. General regulations.

- (1) The proposed use shall be operated in a manner that is consistent with the New York State Penal Law relating to exposure, obscenity or lewdness.
- (2) An adult bookstore or adult entertainment establishment use shall not be operated within 1,000 feet of:
 - (a) A church, synagogue or place of worship.
 - (b) A public or private elementary or secondary school, day care, preschool or other uses of a similar nature.
 - (c) A boundary of any AR or R-1 Zoning District.

(d) A public park, municipal building or community center.

- (3) An adult bookstore or adult entertainment establishment shall not be operated within 1,000 feet of another adult bookstore or adult entertainment establishment, or on the same lot or parcel of land.
- (4) An adult bookstore or adult entertainment establishment shall not be operated in the same building, structure, or portion thereof, containing another adult bookstore or adult entertainment establishment.
- (5) For the purpose of this chapter, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structures as part of the premises where an adult bookstore or adult entertainment establishment is conducted, to the nearest property line of the premises of any of the uses specified in Subsection **B(2)(a)** through **(d)** identified above or to another adult bookstore or adult entertainment establishment.
- (6) All adult bookstores or adult entertainment establishments shall be conducted in an enclosed building, regardless of location.
- (7) No exterior sign shall contain any photographic or artistic representation of the human body.
- (8) All building openings, entries, windows, doors, etc., associated with an adult bookstore or adult entertainment establishment shall be located, covered or screened in such a manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.
- (9) No adult bookstore or adult entertainment use shall be established in any building which is used, in part, for residential purposes.
- (10) No residential use shall be established in any building which contains an approved adult bookstore or adult entertainment use.
- (11) No more than one of the adult uses as defined above shall be located on any lot.

C. Waiver of restrictions. The restrictions enumerated in Subsection **B** above may be waived by the Town Planning Board if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in Article **VIII** of this chapter:

- (1) The proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this chapter will be observed;
- (2) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential; and
- (3) That 51% or more of the property owners within the restricted area as defined in Subsection **B(2)** of this section have signed a petition stating that they have no objection to the establishment of the uses defined above.

D. Amortization. By amortization, the right to maintain a legal nonconforming adult use shall terminate in accordance with the following schedule:

Amount of Capital Investment* as of the Effective Date of this Chapter	Date Before Which Use Shall Terminate
\$0 to \$5,000	January 1, 1998
\$5,001 to \$8,000	January 1, 1999
\$8,001 to \$15,000	January 1, 2000

Amount of Capital Investment* as of the Effective Date of this Chapter	Date Before Which Use Shall Terminate
\$15,001 to \$22,000	January 1, 2001
\$22,000 or more	January 1, 2002

* **NOTE:** The term "capital investment" as used above is defined to mean the initial outlay by the owner or operator of the use to establish the business as of the date of the enactment of this chapter, exclusive of the fair market value of the structure in which the use is located.

§ 350-65. Farm labor camp.

- A. The Planning Board may approve the construction and maintenance of temporary housing to support individual agricultural operation with AR housing to support individual agricultural operation within an AR District, provided the following standards and condition are maintained.
- B. The maximum number of temporary housing units allowed for an individual agricultural operation will be based on:
 - (1) Justification of need for the number of dwelling units requested. This justifications to be based on full-time seasonal employment by one or more persons living as a family in a temporary dwelling unit and deriving their principal income from the individual agricultural operation for which the special use permit is requested.
 - (2) A temporary housing unit will be only be occupied during growing and harvest season for agricultural operation. All other times the temporary housing units will be secured and maintained in a state of good repair.
 - (3) No temporary housing unit will be used, leased or rented to another person if that person does not have a legal interest established with the individual agricultural operation. The landowner will certify, on an annual basis, that the temporary farm housing is used for his/her farm labor.
 - (4) All temporary housing units will be located on a parcel that is under the same ownership as the individual agricultural operation.
 - (5) All temporary housing units will comply with the New York Sate Uniform Fire and Building Code.
 - (6) All temporary housing units will have a septic system approved by the Orleans County Health Department, or an approved connection to the public sewer system.
 - (7) All temporary housing units will have an adequate access to the public highway. The access may be combined with the driveway for the owner of the individual agricultural operation and any other temporary housing units associated with said individual agricultural operation.
 - (8) All temporary housing will refer to § 350-30, Off-street parking, Article VI.
 - (9) All temporary housing units will be located on the portion of an actively farmed site which the Planning Board determines would cause the least disruption to continue farming operation. The basis for this determination will include an overall site plan identifying the land needed for production and land needed in support of said production.
 - (10) All temporary housing units will be subject to the front side and rear setback standards specified for principal buildings in the AR District.

§ 350-66. Mining; excavation.

A. Background.

- (1) The New York State Department of Environmental Conservation (DEC) regulates mining and the reclamation of mined land when the mining operation would remove more than 1,000 tons of material within a calendar year. Recent court decisions have stated that DEC's authority supersedes local zoning control of mining operations. Local governments may regulate whether and where such mining may take place within the municipality.
- (2) The following suggests a definition of mining/excavation as well as draft special permit criteria for the review of proposed mining/excavation operations. Note that extensive regulations are proposed for small scale operations that are not regulated by DEC [Subsection C(6)]. For mining operations regulated by DEC, the proposed regulations are limited to location of mining operations and reference required DEC permit [Subsection C(5)].

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

EXTRACTION OF STONE AND OTHER MINING OPERATION

Any use of the principal activity of which the extraction of 500 or more yards of stone, gravel, sand, soil or other minerals from any lot within a period of 24 consecutive months for the purpose of sale. The term shall not include the incidental extraction and sale of soil or minerals as part of an agricultural use, development of a site, road construction, installation of utilities or other subdivision improvements.

GRAVEL OR SAND PIT

See "extraction of stone and other mining operation."

C. Regulations: extraction of stone and other mining operation. The extraction of stone, sand or gravel shall be permitted with a special use permit in the districts allowed by this chapter, provided the following standards and conditions are maintained. The minimum parcel size shall be not less than 10 acres.

- (1) The extraction of stone, sand and gravel shall be in accordance with applicable statutory provisions.
- (2) Notwithstanding the following regulations, property owners may conduct earthmoving, excavation and filling operations and may utilize gravel, stone or quarry materials in the preparation of building sites or for activities in accordance with an approved final subdivision plan, or for agricultural purposes thereon, provided that such soil, stone, gravel or other materials are not sold.
- (3) The Planning Board may issue and renew permits for the extraction of minerals for commercial purposes and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
- (4) Renewal of permits shall require that all activities undertaken pursuant to the initial permit shall have been conducted in compliance with the terms of such permit and all provisions of this chapter.
- (5) Regulations applicable to the excavation of more than 1,000 tons of minerals (roughly equivalent to at least 750 cubic yards or 40 to 50 truckloads) for commercial purposes within 12 consecutive calendar months and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.
 - (a) The Planning Board may issue or renew a special use permit for such a use, provided that the proposed excavation or reclamation has been duly approved by the New York State DEC in accordance with the New York State Mined Land Reclamation Law, Article 23, Title 27, of the New York State Environmental Conservation Law.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (b) All excavation and reclamation shall be made only in accordance with a mined land use plan, including a mining and reclamation plan, which has been duly approved by the New York State DEC. This plan shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. All permit application information, including mined land use plans, submitted to the DEC, along with all correspondence from the Department regarding the permit application, shall be submitted to the Town.
 - (c) No excavation shall be closer than 100 feet to any street line or other property line, and no excavation below the grade of a street or a property line shall be closer than 100 feet therefrom. No excavation shall be closer than 100 feet to a natural stream.
 - (d) The Town shall notify the DEC of local concerns with regards to activities subject to this subsection.
- (6) Regulations applicable to the excavation of 1,000 or fewer tons of minerals (roughly equivalent to no more than 750 cubic yards or 40 to 50 truckloads) for commercial purposes within 12 consecutive calendar months and for the reclamation of land affected by the excavation, including any operation accessory to the excavation or reclamation.
- (a) The Planning Board may issue a permit for a period of no more than one year. Such permit may be renewed for additional periods no greater than that for which the permit was originally issued.
 - (b) Such permit shall be issued or renewed, provided that the excavation or reclamation:
 - [1] Conforms to the applicable regulations of this chapter; and
 - [2] Will not be detrimental to the appropriate and orderly development of the district in which it is situated or impair the value thereof.
 - (c) All excavations and reclamation shall be made only in accordance with plans approved by the Planning Board. These plans shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. In addition to the information required in Subsection **C(5)(b)** above, these plans shall show:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

 - [1] The location of the site and its relation to neighboring properties and roads with 500 feet from the site;
 - [2] The location of access drives into the site;
 - [3] Plans for erosion and sedimentation control during excavation and reclamation;
 - [4] Areas to be excavated;
 - [5] The location and description of fences and barricades;
 - [6] The location and description of accessory uses;
 - [7] The location and description of easements;
 - [8] Hours of operation;
 - [9] Plans for control of noise and dust;
 - [10] Slopes before and after excavation;
 - [11] Drainage of surface water and groundwater before and after excavation;
 - [12] The proposed level of any impounded water;

[13] Proposed vegetation after excavation;

[14] The disposal of debris, refuse, tailings, waste or spoils;

[15] Information from all serving utility companies as to the location of easements and underground facilities;

[16] Any additional information required by the Planning Board to ensure the provisions of this section are complied with.

- (d) No excavation shall be closer than 100 feet to any street line or other property line, and no excavation below the grade of a street or a property line shall be closer than 100 feet therefrom. No excavation shall be closer than 100 feet to a natural stream.
- (e) Fences or barricades shall be erected on all sides of an excavation area that abuts a residential area or road to protect pedestrians and vehicles. Fencing may be required depending upon the existence of an earthen berm, the nature of the operations, distance from developed area, distance from property lines, depth of pit water, and slope of pit walls.
- (f) All haulageways leading to public highways shall be dust and mud free. All precautions shall be taken to prevent dust and dirt from being blown from the premises.
- (g) Noise created by excavation and reclamation operations shall not be detrimental to adjacent property nor unduly interfere with the quiet enjoyment of adjacent property. Noise shall be in accordance with and not exceed the MSHA levels from sunset to sunrise.
- (h) All debris, stumps, boulders and similar waste materials shall be removed from the site and properly disposed of or, in the case of inorganic material, buried and covered with a minimum of two feet of compacted soil. All such materials shall have been identified to the Planning Board as part of the approved application permit.
- (i) All rock blasting shall occur during daylight hours Monday through Friday and shall be conducted in accordance with all applicable regulations under the personal supervision of a person holding a current license and certificate of competence from the New York State Department of Labor. Before any blasting occurs, the applicant shall file evidence of insurance or shall file a bond in such form, amount and coverage as determined by the Planning Board and Town Attorney to be adequate in each case to indemnify any injured parties against damages arising from the blasting.
- (j) Subsoil and topsoil shall be respread over the excavation areas to a minimum depth of one foot (six inches of topsoil and six inches of subsoil). This soil shall be treated with lime and fertilizer and seeded with a grass or legume mixture prescribed by the Planning Board. The planted area shall be protected from erosion during the establishment period using generally accepted soil conservation practices. A plan describing the revegetation of reclaimed land, including location, size and type of all materials to be planted and the type, location and rate of all seeding to be done, shall be included as part of the site plan submitted to the Planning Board.
- (k) An adequate and comprehensive drainage system shall be provided to convey the stormwater runoff originating on and crossing the premises in accordance with the natural direction of runoff for the total watershed areas. During and upon completion of the excavation operation (with one year after completion of the excavation operation), the land shall be left so that natural storm drainage leaves the property at the original drainage points or other drainage points if appropriate and approved by the Planning Board. Also the rate of drainage to any one point shall not be significantly increased.

- (l) The reclamation method shall be such to allow for the future use permitted in the district in which the site is located. For sites to be reclaimed for residential purposes, a minimum depth of five feet of undisturbed material above the water table shall be maintained during excavations.
- (m) Within one year after the termination of the excavation operation, all equipment, buildings and structures not consistent with the planned use of the reclaimed land and all unsightly evidence of the operation shall have been removed from the premises and disposed of by the methods approved by the Planning Board or other authority having jurisdiction and all restoration shall have been completed.
- (n) Reclamation, where possible, shall provide for orderly, continuing reclamation concurrent with excavation operations, and all reclamation work shall be completed in accordance with a schedule accepted as a condition of the approved permit.
- (o) A description of the mining method shall be provided indicating compliance with all applicable regulations and environmental codes. Such descriptions shall include, but not necessarily limited to, the method of extraction, the locations and extent of any cut or excavation, the location and size of all stockpiles or spoil banks, the disposition of all materials used in and resulting from the mining and location and treatment of haulageways.
- (p) All operations shall be conducted in a safe manner with respect to the likelihood of hazard to persons, physical damage to adjacent land or improvements or damage to any street or user of a highway by reason of slides, sinking or collapse.
- (q) Erosion and sedimentation control measures shall be installed to keep all sediment damage on the applicant's property.
- (r) The final slope of any excavated material shall not exceed the normal limiting angle of repose of such material, except where a suitable retaining wall is built to provide lateral support.
- (s) Storage piles of materials obtained as a result of the mining operation, topsoil and waste materials, including, but not limited to, vegetation, subsoil, rock overburden, and soil, shall not be located closer to property lines than is permitted for excavations. Storage piles shall include material classified as toxic by the New York State DEC. During excavation operations, all stockpiles of soil shall be seeded or otherwise treated to minimize the effects of erosion by wind or water upon public roads, streams or adjacent properties. After completion of excavation operations, waste materials shall be removed from the site or may be used in filling all open pits, quarries, etc., piles of excess waste materials shall be leveled and the excavated areas shall be graded, topsoil added, seeded and planted to prevent erosion.
- (t) The Planning Board shall require a cash bond or letter of credit to be posted in an amount and form to be determined by that Board, ensuring conformance to approved excavation and reclamation plans and all applicable regulations. The Planning Board shall set a reasonable time limit for such bond, not to exceed one year or the term of the permit or renewal, except in the case of continuing excavation operations when a bond may be renewed or extended with each permit renewal.

Article VIII. Administration and Enforcement

§ 350-67. Enforcement.

The duty of administering and enforcing the provisions of this chapter is hereby conferred upon the

Code Enforcement Officer (CEO), who shall be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth below. The CEO shall receive such compensation as the Town Board shall determine.

§ 350-68. Duties and procedures of Code Enforcement Officer.

- A. It shall be the duty of the Code Enforcement Officer or his duly authorized assistants to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this chapter. In the fulfillment of their duties, the Code Enforcement Officer or his authorized assistants may enter any premises or building during reasonable hours in the course of his duties in accordance with state law after due written notice has been given.
- B. If the Code Enforcement Officer shall find that any of the provisions of this chapter are being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and order the action to correct it. In his efforts to attain compliance, the Code Enforcement Officer shall have the authority to order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; stop work; or discontinuance of any illegal work being done. On the serving of notice by the Code Enforcement Officer to the owner of any property violating any of the provisions of this chapter, the certificate of compliance for such building or use shall be held null and void. A new certificate of compliance shall be required for any further use of such building or premises.
- C. It shall be the duty of the Code Enforcement Officer to issue permits (temporary and permanent) and certificates to applicants who fully comply with the provisions of this chapter.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- D. The Code Enforcement Officer shall maintain a permanent and current record of all applications for permits and certificates, his action upon same, any conditions relating thereto, and any other matters considered and action taken by him. Such records shall form a part of the records of his office and shall be available for use by Town officials and for inspection by the public. The records to be maintained shall include the following:
- (1) Application file. An individual permanent file for each application for a permit or certificate provided for by this chapter shall be established at the time the application is made. Said file shall contain one copy of the application and all supporting documents and plans; notations regarding pertinent dates and fees and the like; as appropriate, one copy of any resolutions or actions of the Town Board, Planning Board or Zoning Board of Appeals in acting on the application; and the date the permit or certificate applied for was issued or denied.
 - (2) The Code Enforcement Officer shall prepare and submit reports as determined by the Town Board. Said report shall cite all referrals to Planning and Zoning Boards, all permits and certificates issued and denied, and all violations found.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- E. Whenever the Code Enforcement Officer denies a permit or certificate he shall inform the applicant of the specific reasons for denial and instruct the applicant on the proper methods to apply for relief.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- F. The Code Enforcement Officer shall maintain a current list and a map of nonconforming uses to determine if discontinuance or destruction, or change in use or vacancy has taken place.
- G. The Code Enforcement Officer shall maintain a current list and a map showing the variances and special use permits to determine if the conditions and safeguards placed on variances and

special use permits are being complied with.

- H. Upon written direction from the Planning Board, the Code Enforcement Officer shall issue special use permits. Upon approval of a variance by the Zoning Board of Appeals, the Code Enforcement Officer shall be empowered to issue the necessary permits with the specific conditions to be imposed.
- I. The Code Enforcement Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

§ 350-69. Creation, appointment and organization of Planning Board.

- A. Pursuant to the provisions of the Town Law applicable thereto, the Town Board shall appoint a Planning Board consisting of seven regular members and two alternate members and for the term of years set forth in Town Law § 271. Alternate members shall serve in both conflict-of-interest and non-conflict-of-interest situations.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See also Ch. 59, Planning Board, Art. I, Alternate Members.

- B. Required training and attendance.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) Pursuant to Town Law § 271, effective January 1, 2007, Town of Barre Planning Board members are hereby required to complete four hours of training per year, and pursuant to local option shall attend eight of 12 annual meetings, or 75% of meetings called by the Chairman if fewer than 12, in order to be eligible for reappointment to the Planning Board.
- (2) The following shall apply:
 - (a) Any training in excess of four hours per year may be carried over to the succeeding year.
 - (b) Required training may be waived or modified by resolution of the Town Board when, in the judgment of the Board, it is in the best interest of the Town to do so.
 - (c) The Chairman of the Planning Board shall submit to the Town Board, no later than December 15 of each year, a summary report of training and attendance for each member and alternate member of the Board.
 - (d) All training shall be approved by the Town Board.
- (3) The Town Clerk is directed to provide a copy of this subsection to all members and alternate members of the Planning Board.

- C. The Planning Board shall establish such rules and regulations as are required by law and the provisions herein for the transaction of their business, and may amend, modify and repeal the same from time to time.
- D. The Town Board may select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a Chairman from its own members.

§ 350-70. Powers and duties of Planning Board.

The Planning Board shall have the following powers and duties:

- A. To review and recommend revisions to the comprehensive plan for the development of the

Town as provided under § 272-a of Town Law and/or Town Board resolution.

- B. To review and comment on all proposed zoning amendments and to make investigations, maps, reports and recommendations relating to the planning and development of the Town as it deems desirable. This shall include, but not be limited to, changes in boundaries of districts, recommended changes in the provisions of this chapter, other land use and development matters of importance to the Planning Board, and to act on any matter lawfully referred to it by the Town Board.
- C. To review site plans as authorized by New York State Town Law and prescribed in Article **X** of this chapter.
- D. To review applications for special use permits as authorized by Articles **VII** and **IX** of this chapter.
- E. To review proposals to approve or disapprove the laying out, closing off, abandonment or changes in lines of streets, highways and public areas and to make recommendations to the Town Board.
- F. To review, act on or provide advisory reports as specified by this chapter.
- G. To make referrals to other Town departments, boards and/or officials to request advisory opinions to assist the Planning Board in making decisions which affect the development of the Town.
- H. All such powers and duties as are conferred upon town planning boards and subject to the limitations set forth in §§ 271, 272-a, 274-a, 274-b, 276, 277, 278 and 279 of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to planning boards.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 350-71. Planning Board office and records.

- A. The office of the Town Clerk shall be the office of the Planning Board. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by the Town Law of the State of New York.
- B. The Planning Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official actions.

§ 350-72. Creation, appointment and organization of Zoning Board of Appeals.

- A. A Zoning Board of Appeals is hereby created. Said Board shall consist of five members appointed by the Town Board, who shall also designate a Chairman. No person who is a member of the Town Board shall be eligible for membership on such Board of Appeals. Of the members of the Board, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years from and after his appointment. Their successors shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur other than by expiration of a term, it shall be filled by the Town Board by appointment for the length of the unexpired term. Alternate members shall hold office for a term of three years and shall serve in both conflict-of-interest and non-conflict-of-interest situations.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B. Required training and attendance.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

(1) Pursuant to Town Law § 267, effective January 1, 2007, Town of Barre Zoning Board of Appeals members are hereby required to complete four hours of training per year, and pursuant to local option shall attend eight of 12 annual meetings, or 75% of meetings called by the Chairman if fewer than 12, in order to be eligible for reappointment to the Zoning Board of Appeals.

(2) The following shall apply:

(a) Any training in excess of four hours per year may be carried over to the succeeding year.

(b) Required training may be waived or modified by resolution of the Town Board when, in the judgment of the Board, it is in the best interest of the Town to do so.

(c) The Chairman of the Zoning Board of Appeals shall submit to the Town Board, no later than December 15 of each year, a summary report of training and attendance for each member and alternate member of the Board.

(d) All training shall be approved by the Town Board.

(3) The Town Clerk is directed to provide a copy of this subsection to all members and alternate members of the Zoning Board of Appeals.

Editor's Note: Original Subsection C, regarding removal of members by the Town Board, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

C. The Zoning Board of Appeals shall establish such rules and regulations as are required by state and local laws for the transaction of its business and may amend, modify and repeal the same from time to time.

§ 350-73. Powers and duties of Zoning Board of Appeals.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

The Board of Appeals shall have all the powers and duties prescribed by Town Law § 267-b and by this chapter which are more particularly specified as follows:

A. Appeals for administrative review, interpretations and determinations.

(1) The Zoning Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative officer or body in the enforcement of this chapter.

(2) The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(3) The Zoning Board of Appeals shall hear and decide on interpretive matters where the provisions of this chapter, including the determination of exact district boundaries, are not clear.

B. Variances.

(1) The Board of Appeals is empowered to authorize, upon appeal in specific cases, such

variance from the terms of this chapter as will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the provisions herein would result in unnecessary hardship or practical difficulties.

- (2) As used herein, a variance may be authorized for height, area, size of structure, size of yards and open spaces or establishment or expansion of a use otherwise prohibited.
- (3) A variance shall not be granted solely because of the presence of nonconformities in the zoning district or uses in other zoning districts.
- (4) In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
- (5) Variances granted shall be the minimum which would accomplish the purpose of providing for reasonable use of land or buildings.
- (6) Variances granted shall be in harmony with the general purpose and intent of this chapter and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.

§ 350-74. Permitted actions on area or use variances.

A. Area variances.

- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, or in conjunction with an application for site plan review or subdivision approval, to grant area variances as defined herein.
- (2) 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:
 - (a) 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;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) 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.
- (3) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

B. Use variances.

- (1) The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use

variances, as defined herein.

- (2) 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 prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that, for each and every permitted use under this chapter for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) The alleged hardship has not been self-created.
 - (3) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- C. 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 this chapter, and shall be imposed for the purpose of minimizing any adverse impact that such variance may have on the neighborhood or community.

§ 350-75. Procedures for appeals and variances.

A. Variance procedures.

- (1) The applicant may arrange an informal discussion with the Board of Appeals to determine any and all of the data to be included in the application.
- (2) All applications for variances shall be made in quadruplicate to the Code Enforcement Officer (CEO) on forms provided by the CEO and shall be accompanied by plans and supporting documents to sufficiently describe the proposal. All applications shall refer to the specific provision of the law involved and establish the details of why the variance should be granted. The Board of Appeals may request additional information it deems necessary in order to act on the application.
- (3) The CEO, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Board of Appeals for action thereon.
- (4) Use variance within agricultural district. Where an application for a use variance involves land lying within certain distances prescribed in § 283-a of Town Law, an agricultural data statement shall be prepared and proper notice thereof given to all affected property owners.
- (5) Public hearing on appeal. The Board of Appeals shall fix a reasonable time for the public hearing of the appeal, variance, or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the Town at least five days prior to the date thereof. 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 of Appeals prior to the hearing of such appeal. Upon the hearing, any party may appear in person, or by agent or attorney.

- (6) Additional public notice. The applicant shall place one sign on the property for which an appeal or variance is requested. Said sign shall be provided by the Code Enforcement Officer at the time the appeal or application for variance is filed. The sign shall be placed in a location which is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than five days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative. Prior written notice to property owners within 500 feet of a property subject to an application/public hearing before the Planning Board or Zoning Board of Appeals shall be received no later than five days before such hearing. General Municipal Law § 239-n, requiring 10 days' notice to the Clerk of any adjoining municipality, shall remain in full force and effect.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (7) Referral to County Planning Board. A copy of the complete variance application and supporting documents shall also be transmitted to the County Planning Board for review when required either under Article 12-B, §§ 239-l and 239-m of the General Municipal Law, or § 283-a of the New York State Town Law.
- (8) Time of decision. The Board of Appeals, providing SEQR has been complied with, shall decide upon the appeal or variance within 62 days after the conduct of said hearing. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- (9) Filing of decision and notice. The decision of the Board of Appeals on the appeal or variance shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.
- (10) The CEO shall, upon receipt of the notice of approval and upon application by the applicant, issue the appropriate zoning permit or such other approval permitted by the variance, subject to all conditions imposed by the Zoning Board of Appeals.

B. Appeals procedures.

- (1) An appeal, including any request for an interpretation or determination, and specifying the grounds for the appeal, shall be filed with the officer, or body, from whom the appeal is taken and with the Board of Appeals. All appeals and applications shall be made to the Board of Appeals within 60 days of the date on which the order, requirement, decision or determination appealed from was rendered and shall be on forms prescribed by the Board.
- (2) Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the Town.
- (3) The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official.
- (4) The officer from whom the appeal is taken shall, within 30 days of the filing of the appeal, transmit all papers constituting the record upon which the appeal is taken to the Board of Appeals.
- (5) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be

granted by the Board of Appeals or by a court of record, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

- (6) If the Board of Appeals determines that a public hearing is necessary, the Board of Appeals shall fix a time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable length of time thereafter. At the time of the hearing, any party may appear in person, by agent or by attorney.
- (7) The Board of Appeals, providing SEQR has been complied with, shall render a decision on each appeal within 62 days of the close of the public hearing on said matter. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- (8) Any action by the Board of Appeals shall be stated in writing and communicated to the person bringing the appeal within five business days after the decision has been made.

§ 350-76. Meetings, records and general procedures.

- A. 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.
- B. Meetings of such Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law.
- C. All votes of the Zoning Board of Appeals shall be taken by roll call. Such Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.
- D. In accordance with General Municipal Law § 809, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- E. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the Town Attorney, and require the Town Attorney to attend its meetings, provided that funds for such services are made available by the Town Board.
- F. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance.
- G. The Town Board may provide for compensation to be paid to experts, clerks and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purpose.
- H. The Zoning Board of Appeals shall make factual record of all its proceedings, including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the Secretary of the Board.
- I. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals shall be filed in the office of the Town Clerk within five business days and shall be a public record.
- J. Rehearings. Whenever the Zoning Board of Appeals, after hearing all the evidence presented

upon an application for appeals under the provisions of this chapter, denies or rejects same, said Board shall refuse to hold further hearings on the same or substantially similar application for appeal by the same applicant, their successors or assigns, for a period of one year, except and unless the Board shall find and determine from the information supplied in the request for a rehearing that changed conditions have occurred relating to the promotion of public health, safety, convenience, comfort, prosperity and general welfare and that a reconsideration is justified. Such rehearing may be granted only upon the favorable vote of a majority of the Board plus one.

§ 350-77. Board of Appeals office.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

The office of the Town Clerk shall be the office of the Board of Appeals. Every rule, regulation, amendment or repeal thereof and every order, requirement, decision or determination of the Board shall immediately be filed in said office as required by § 267-a of the Town Law of the State of New York. The Board of Appeals shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its environmental reviews and determination, its examinations and other official action.

§ 350-78. Lapse of authorization.

Any variance or modification of this chapter authorized by the Board of Appeals shall be automatically revoked unless a zoning permit or building permit, conforming to all the conditions and requirements established by the Board of Appeals, is obtained within six months of the date of approval by the Board of Appeals and construction commenced within one year of such date of approval.

§ 350-79. Violation of conditions or restrictions.

- A. Failure to comply with any condition or restriction prescribed by the Board of Appeals in approving any appeal for a variance or a modification of regulations shall constitute a violation. Such violation may constitute the basis for revocation of a variance or modification or for imposing penalties and other applicable remedies.
- B. If applicable and appropriate, and authorized by the Town Board or specified herein, and after 10 days' notice of the violation and failure to correct such violation, the Code Enforcement Officer may correct any violation of this chapter and charge the responsible party for the costs incurred. If such costs are not paid by the responsible party, the cost shall be added to the yearly tax bill for the owner of the premises on which the violation occurred.

§ 350-80. Revocation of variances.

[Added 2-11-2003; amended 3-12-2008 by L.L. No. 1-2008]

- A. In the event that there is a violation of any condition or restriction of a variance prescribed by Zoning Board of Appeals (ZBA), the Code Enforcement Officer shall notify, in writing, the person(s) responsible for such violation, indicating the nature of the violation, and order the action to correct it.
- B. In addition to any other enforcement action that may be taken against the property owner for zoning law violation(s), and in the event that the ZBA may revoke a variance, pursuant to Town Law § 267-b, for failure to comply with any condition or restriction thereof:

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (1) The ZBA shall schedule a hearing on a minimum of 20 days' notice to property owner, to determine whether the property owner's variance should be revoked. The property owner may appear in person and may be represented by counsel.
- (2) If, after the hearing, the ZBA decides by a majority vote to revoke the variance, such action shall be deemed final, and the variance shall be revoked.
- (3) Upon an adverse decision by the ZBA against a property owner, the property owner may pursue an Article 78 proceeding pursuant to § 350-81 of this chapter.

§ 350-81. Article 78 proceeding.

- A. Application to Supreme Court by aggrieved persons. Any person or persons, jointly or severally aggrieved by any decision of the Board of Appeals or any officer, department or board of the Town, may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision of the Board in the office of the Town Clerk or in the office designated by resolution of the Town Board. The court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his or her findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The Court, at special term, shall itself dispose of the cause on the merits, determining all questions which may be presented for determination.
- B. Costs of appeal. Costs shall not be allowed against the Board of Appeals unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.
- C. Preference of appeal to Court. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.
- D. Power of Court. If, upon the hearing at a special term of the Supreme Court, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may specify the decision brought up for review.

§ 350-82. State environmental quality review (SEQR).

- A. The State Environmental Quality Review Act
Editor's Note: See Environmental Conservation Law § 8-0101 et seq.
requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 6 and Part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.
- B. All Type I actions (6 NYCRR Part 617) shall require the submission and review of an environmental assessment form.
- C. For zoning action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board.
 - (1) Zoning text amendments: Town Board.
 - (2) Zoning district amendments: Planning Board.

- (3) Variances: Zoning Board of Appeals.
- D. 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 a draft environmental impact statement. Review, notice and action on the EIS shall be conducted according to Part 617.
- E. The local lead agency's review of the action shall include the following procedures and general considerations.
- (1) If the local lead agency determines that the proposed action is not an exempt action, or an action listed in Section 617.12 of Title 6 NYCRR as a Type II action, and that it will not have significant effect on the environment or local plans, then the local lead agency shall prepare, file and circulate such determination as provided in Section 617.7(b) of Title 6 NYCRR and thereafter the proposed action may be processed without further regard to this article.
 - (2) The local lead agency shall maintain files that are open for public inspection of all notices of proposed actions, draft and final environmental impact statements, and written determinations.

Article IX. Special Use Permits and Procedures

§ 350-83. Purpose.

It is the intent of this chapter to use special use permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Special use permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

§ 350-84. Administration.

- A. The Town Planning Board is authorized to review and grant special use permits, as provided for by this chapter. Upon written direction of the Planning Board, the Code Enforcement Officer is hereby empowered to issue a special use permit as provided for by this chapter.
- B. Uses permitted by special use permit shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in Article **VII** in addition to all other requirements of this chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- C. A special use permit shall authorize only one particular special use. The special use permit shall be renewed annually and shall expire if the use shall cease for more than one year for any reason.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- D. No person shall be issued a special use permit for a property where there is an existing violation of this chapter.

§ 350-85. Findings.

- A. The Planning Board may grant a special use permit for uses described in Article **VII**, provided

that all requirements and conditions set forth in that article are complied with.

- B. The Planning Board shall make written findings for each special use permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements of Article VII shall also be maintained, in addition to the following concerns:
- (1) Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - (2) Off-street parking and loading areas, where required, and the noise, glare or odor effects of the special use permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permit use.
 - (3) Refuse and service areas.
 - (4) Utilities, as appropriate, with reference to locations, availability and compatibility.
 - (5) Storm drainage, including potential impact on downstream properties.
 - (6) Screening and buffering, with reference to type, dimensions and character.
 - (7) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
 - (8) Required yards and other open space.
 - (9) General compatibility with adjacent properties and other properties in the zone district.

§ 350-86. Procedures.

- A. All applications for special use permits shall be made in quadruplicate to the Code Enforcement Officer on forms provided by him.
- B. The Code Enforcement Officer, after determining that an application is in proper form, shall transmit copies of the application and all supporting documents to the Planning Board for approval, in accordance with the procedures specified below.
- C. The Code Enforcement Officer shall transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, § 239-m, of the General Municipal Law.
- D. Each application for a special use permit shall be accompanied by a proposed site plan showing the information required for site plan approval as described in Article X of this chapter.
- E. Public hearing.
- (1) Prior to taking action on an application for a special use permit, the Planning Board shall conduct a public hearing on the proposed request. Said hearing shall be conducted within 62 days following the receipt of a complete application and supporting documents from the Code Enforcement Officer.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
 - (2) The Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.
 - (3) The notice of the public hearing shall be sent and published at least 10 calendar days prior to the date of the public hearing. Such notice shall include sufficient information so as to

identify the property involved and the nature of the proposed action.

- (4) Effective January 1, 2007, prior written notice to property owners within 500 feet of a property subject to an application/public hearing before the Planning Board or Zoning Board of Appeals shall be received no later than five days before such hearing. General Municipal Law § 239-n, requiring 10 days' notice to the Clerk of any adjoining municipality, shall remain in full force and effect.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- F. If the application is required to be transmitted to the County Planning Board under Article 12-B, § 239-m, of the General Municipal Law, the Planning Board shall not act within the first 30 days following the referral of the application to the County Planning Board unless said Board provides a written reply to the Town within the thirty-day period.
- G. The Planning Board shall render its decision, either approving, approving with conditions, or denying the special use permit, within 62 days after the public hearing unless an extension is mutually agreed upon by the Planning Board and the applicant.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- H. In approving an application, the Planning Board may impose any modifications or conditions it deems necessary to conform with the goals and objectives of the Town's Comprehensive Plan and its principles of land use and development, and to protect the health, safety or general welfare of the public.
- I. If an application is approved by the Planning Board, the Code Enforcement Officer shall be furnished with a copy of the approving resolution of the Planning Board, and he shall issue the permit applied for in accordance with the conditions imposed by the Board.
- J. If any application is disapproved by the Planning Board, the reasons for such denial shall be set forth in the Board 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.
- K. The Code Enforcement Officer shall inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Planning Board in approving the permit. If the Code Enforcement Officer shall determine that the conditions are not in compliance with the permit, the Code Enforcement Officer shall nullify the special use permit and set forth the procedures and requirements for reestablishing the use. The use may not be operated until a new application is submitted and approved.

Article X. Site Plan Review

§ 350-87. Purpose.

The intent of this article is to set forth additional general standards applying to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this chapter.

§ 350-88. Applications.

All applications for zoning permits, zoning variances, or special use permits, except those for one- and two-family dwellings and their permitted accessory uses, any addition to a single-family dwellings, or general farming uses, shall be accompanied by a site plan. No zoning permit shall be

issued until all the requirements of this article and all other applicable provisions of this chapter have been met.

§ 350-89. Procedure.

- A. A preapplication conference may be held between the Planning Board and applicant to review the basic site design concept and to determine the information to be submitted with the site plan.
- B. Each application for a building permit, variance or special use permit for any structure, building or use other than one- or two-family dwelling, their permitted accessory use, any addition to a single-family dwelling or general farming use, shall be referred to the Town Planning Board for site plan review. The application shall be made to the Planning Board by filing it with the Code Enforcement Officer. The Code Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting. The applicant may wish to attend the Planning Board meeting to answer questions concerning the application.
- C. Within 62 days of receipt of the application, the Planning Board shall render a decision to approve, approve with conditions, or deny the site plan, and shall forward the decision to the Code Enforcement Officer. Any extension of this sixty-two-day period may be granted upon consent of both the applicant and the Town Planning Board. If the Planning Board fails to act within the sixty-two-day period or the extension period that has been granted, the site plan shall be considered approved.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- D. A full written record of the Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the office of the Town Clerk and shall be mailed to the applicant.

§ 350-90. Application for site plan approval.

An application for site plan approval shall be made in writing to the Code Enforcement Officer and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information, if necessary, to complete its review.

- A. Plan checklist for all site plans:
 - (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 - (2) North arrow, scale and date.
 - (3) Boundaries of the property plotted to scale.
 - (4) Existing watercourses and bodies of water.
 - (5) Location of any slopes of 5% or greater.
 - (6) Existing and proposed grading and drainage.
 - (7) Location, proposed use, and height of all buildings and site improvements, including culverts, drains, retaining walls and fences.
 - (8) Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
 - (9) Location of outdoor storage, if any.

- (10) Description of the method of sewage disposal and location of the facilities.
- (11) Identification of water source; if well, locate on drawing.
- (12) Location, size and design and construction materials of all proposed signs.
- (13) Location and proposed development of all buffer areas, including existing vegetation cover.
- (14) Location and design of outdoor lighting facilities.
- (15) General landscaping plan.
- (16) Copy of property deed and a listing of all deed restrictions.

B. As necessary, the Planning Board may require the following:

- (1) Provision for pedestrian access, if necessary.
- (2) Location of fire lanes and hydrants.
- (3) Designation of the amount of building area proposed for retail sales or similar commercial activity.
- (4) Other elements integral to the proposed development as considered necessary by the Planning Board.

§ 350-91. Planning Board review of site plan.

The Planning Board's review of the site plan shall include, as appropriate, the following:

A. General considerations:

- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls. This includes the maximum feasible redesign of private roads to conform to existing public access and rights-of-way.
- (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
- (4) Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - (a) No use shall be undertaken which eliminates or substantially reduces a significant view or vista from an existing property due to height, bulk or orientation of structure.
- (5) Adequacy of stormwater and drainage facilities.
- (6) Adequacy of water supply and sewage disposal facilities.
- (7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
- (8) In the case of an apartment complex or other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.

- (9) Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
 - (10) Protection of solar access on adjacent or neighboring properties.
 - (11) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (12) Adequacy of on-site refuse storage, including appropriate screening and rodent control measures.
 - (13) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
 - (14) Special attention to the productive use and access with backlot areas, indicating present and future intended uses.
 - (15) Consistency with the general intent of the Town's Comprehensive Plan.
- B. Consultant review. The Planning Board may consult with the Town Code Enforcement Officer, Fire Commissioners, highway departments, County Planning Department, and other local county officials, in addition to representatives of federal and state agencies, including, but not limited to, the Soil and Water Conservation District, the State Department of Transportation and the State Department of Environmental Conservation.
- C. Optional public hearing. The Planning Board may conduct a public hearing of the site plan. If a public hearing is considered desirable by a majority of the Planning Board, such public hearing shall be conducted within 62 days of the receipt of the complete application and shall be advertised in the official newspaper of the Town at least five days before the public hearing. If a public hearing is held, a decision on the site plan shall be rendered within 62 days after the public hearing.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- D. Additional public notice. If the Planning Board determines that a public hearing shall be held, all property owners within 500 feet of the subject property shall be notified, in writing, at least five days prior to the public hearing. Additionally, the applicant shall place one sign on the property for which site plan review is requested. Said sign shall be provided by the Code Enforcement Officer. The sign shall be placed in a location which is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than five days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- E. Action on site plan.
- (1) The Planning Board may:
 - (a) Grant final approval of the site plan;
 - (b) Disapprove the site plan; or
 - (c) Conditionally approve the site plan.
 - (2) If the Planning Board grants final approval of the site plan, the Planning Board shall direct the Planning Board Chairman to endorse its approval on the original and one copy of the final site plan. Once signed, the Planning Board shall forward the Mylar and site plan to the CEO. The CEO shall issue a zoning permit to the applicant if the project conforms with all other applicable requirements and permits.
 - (3) If the Planning Board disapproves the site plan, the Planning Board shall so inform the

CEO and the applicant. 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. A copy of the appropriate minutes may suffice for this notice.

- (4) If the Planning Board conditionally approves the site plan, the site plan initially submitted shall be considered to be the preliminary site plan, and the applicant may prepare his final detailed site plan and submit it to the Planning Board for approval. If more than six months has elapsed between the time of the Planning Board's report on the preliminary site plan and the submission of the final site plan, and if the Planning Board finds that conditions have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

§ 350-92. Application for final detailed site plan approval.

- A. The final detailed site plan shall conform substantially to the preliminary site plan that has received conditional (preliminary) site plan approval. It shall incorporate any revisions or other features that may have been recommended by the Planning Board during the preliminary review. All such compliances 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) Detailed sizing and final material specification of all required improvements.
 - (2) An estimated project construction schedule.
 - (3) A detailed plan identifying all lands, easements and rights-of-way which shall be commonly owned with the identification of the association responsible for said ownership, the method of managing commonly owned properties and requiring that the officers of said association shall be identified to the CEO in writing on an annual basis.
 - (4) Information specifying the materials to be used and information as to the character of the exterior design.

§ 350-93. Action on detailed final site plan application.

- A. Within 62 days of the receipt of a complete application for final site plan approval, the Planning Board shall render a decision to the applicant and the CEO.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- B. Upon approval by all involved agencies, an application for final site plan approval by the Planning Board shall direct the Planning Board Chairman to endorse its approval on the original Mylar and one copy of the final site plan. Once signed, the Planning Board shall forward the Mylar and site plan to the CEO. The CEO shall issue a zoning permit to the applicant if the project conforms with all other applicable requirements and permits.
- C. Upon disapproving an application for a final site plan, the Planning Board shall so inform the CEO and the applicant. 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. A copy of the appropriate minutes may suffice for this notice.

§ 350-94. Supplemental regulations pertaining to site plan approval.

- A. Expiration of site plan approval. Such site plan approval shall automatically terminate one year after the same is granted unless significant work has been done on the project.
- B. Reimbursable costs. Reasonable costs incurred by the Town for consultation fees or other extraordinary expenses associated with the review of a proposed site plan shall be charged to the applicant in accordance with the fee schedule.
- C. Performance guarantee.
 - (1) No zoning permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Planning Board, has been posted for improvements. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the CEO, Town Engineer, Planning Board and Town Attorney.
 - (2) The Planning Board shall have the option of requiring a performance bond or other financial guarantee in an amount sufficient to restore the property to its original condition if the applicant fails to comply with the conditions of the site plan approval.
- D. Inspection of improvements and development. The CEO shall be responsible for the overall inspection of site improvements, including coordination with the Town officials and agencies, as appropriate. No certificate of occupancy shall be granted prior to a final inspection and determination of conformity to the site plan and New York State Building Code.
- E. Integration of site plan approval procedure with other Planning Board approvals. Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedures or other requirements of this chapter, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this article with the procedural and submission requirements for such other compliances. In any case, all state permits and local land use control approvals shall be procured prior to the issuance of a building permit for a development project.
- F. Conflicts. If any conflicts exist between this site plan review procedure and other land use controls of the Town, this article shall apply.

Article XI. Wind Energy Overlay Zone

[Added 8-13-2008 by L.L. No. 2-2008 *Editor's Note: This local law also repealed original Section 609, Alternative Energy Systems, as amended 7-10-2007 by L.L. No. 2-2007.*]

§ 350-95. Intent and purpose.

The purpose of these supplemental requirements and standards is to regulate the development of a wind energy conversion project (wind turbines) and related structures in the Town of Barre. This article is to be consistent with the general purposes stated in the Comprehensive Plan of the Town, to accommodate the necessary infrastructure for the provision of commercial wind powered electricity generation facilities so that they may be developed in a manner hereby deemed to be compatible with the general health, welfare and safety of the residents of the Town of Barre. Furthermore, this article is enacted to address the visual, aesthetic and the land use compatibility aspects of wind energy conversion units, and more specifically to:

- A. Encourage the location of wind energy conversion units in areas where adverse impacts on the community are minimized.
- B. Encourage the configuration of wind energy conversion units in a way that minimizes adverse visual impact of the towers.

- C. Encourage the co-location or shared use of proposed and existing wind energy conversion unit sites.

§ 350-96. Legislative authority.

This article is enacted pursuant to the following authority granted by:

- A. Article **IX** of the New York State Constitution, Section 2(c)(6) and (10).
- B. New York Statute of Local Governments § 10, Subdivisions 1, 6 and 7.
- C. New York Municipal Home Rule Law § 10, Subdivision 1(i) and (ii) and Subdivision 1(a)(6), (11), (12) and (14).
- D. The supersession authority of New York Municipal Home Rule Law section 10(2)(d)(3).
- E. New York Town Law Article 16 (Land Use).
- F. New York Town Law § 130, Subdivision 1 (Building code), Subdivision 3 (Electrical code), Subdivision 5 (Fire prevention), Subdivision 7 (Use of streets and highways), Subdivision 7-a (Location of driveways), Subdivision 11 (Peace, good order and safety), Subdivision 15 (Promotion of public welfare), Subdivision 15-a (Excavated lands), Subdivision 16 (Unsafe buildings), Subdivision 19 (Trespass), and Subdivision 25 (Building lines).
- G. New York Town Law § 64, Subdivision 17-a (protection of aesthetic interests) and Subdivision 23 (General powers).

§ 350-97. Findings.

The Town Board of the Town of Barre finds and declares that:

- A. Wind energy is an abundant, renewable, and nonpolluting energy resource of the Town, and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the emission of hydrocarbons that result from the use of conventional energy sources.
- B. The generation of electricity from properly sited wind turbines, including private systems, can be cost effective, and in many cases, existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or on-site consumption can be reduced.
- C. Regulation of the siting and installation of wind turbines is necessary for the purposes of protecting the environment as well as the health, safety and welfare of neighboring property owners and the general public from any potential impacts, including, but not limited to, those set forth herein.
- D. Wind energy systems represent significant potential aesthetic impacts because of their large size, lighting, shadow flicker effects, and visual impacts associated with collection systems.
- E. If not properly regulated, installation of wind energy conversion systems can create drainage problems through erosion and lack of sediment control for system sites and access roads, and harm farmlands through improper construction methods.
- F. Wind energy conversion systems may present a risk to bird and bat populations if not properly cited.
- G. If not properly sited, wind energy conversion systems may present risks to the property values of adjoining property owners.

- H. Wind energy conversion systems can be a significant source of noise, which if unregulated can negatively impact adjoining properties.
- I. Construction of wind energy conversion systems can create traffic problems and damage local roads.
- J. Wind energy conversion systems can cause electromagnetic interference issues with various types of communications.
- K. Wind energy conversion systems can impact on emergency and response services.
- L. Wind energy conversion systems can have environmental impacts on wetlands, streams and other natural habitats.
- M. Wind energy conversion systems can impact area groundwater, private wells and particularly, as a result of blasting, operations that might be necessary for construction of such systems.

§ 350-98. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACCESSORY FACILITIES OR EQUIPMENT

Any structure, other than a wind energy conversion unit, related to the use and purpose of deriving energy from such towers located at the wind energy conversion system.

APPLICANT

Any person or entity applying to develop, own, locate, construct or operate a wind energy conversion system within the Town. All requirements placed upon an applicant under this article or by way of approval of a permit issued hereunder shall be fully and completely binding upon the owner, his/her/its successors, heirs and assigns of the wind energy conversion system being submitted for review hereunder.

BLADE GLINT

The intermittent reflection of the sun off the surface of the blades of a wind energy conversion unit.

DECOMMISSIONED

Status applied to a wind energy conversion unit when it has been nonproductive for a period of one year, or when the unit or project no longer provides a useful service.

FALL ZONE

A level distance perpendicular to the base equal to the total height of the wind energy conversion unit plus the rotor at a full and upright vertical position.

NACELLE

The portion of the wind energy conversion unit that connects the rotor to the support tower and houses the generator, gearbox, drive train and braking system.

PLANNING BOARD

The Town of Barre Planning Board.

PUBLIC HEARING

A meeting announced and advertised in advance, and open to the public, with the public given an opportunity to talk, participate and express their opinions, support or concerns.

RESIDENTIAL STRUCTURE

Any permanent structure or mobile home for human habitation with electric power and running

water.

RIGHT-OF-WAY

A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

SETBACK

The area of land measured along the ground out a horizontal distance in any direction from the structure or facility being regulated under this article.

SHADOW FLICKER

The effect from the sun shining through the turning blades on the wind energy conversion unit and casting a shadow over the landscape, most noticeably during sunrise and sunset.

TIP HEIGHT

Tip height is equal to the distance from the ground to the tip of the rotor blade in a full and upright vertical position.

TOWER HEIGHT and/or TOTAL HEIGHT

Tower height is equal to the distance from the ground to the top of the tower not including the nacelle or rotor blades.

WECS or TOWER SITE

Site where one or more wind energy conversion unit or wind turbines will be located, including all accessory facilities or equipment.

WIND ENERGY CONVERSION SYSTEM (WECS)

All structures and facilities utilized or necessary for the normal operation of the project being submitted by an applicant under this article, including, but not limited to, wind energy conversion units, all accessory facilities and equipment thereto, and/or any portion thereof.

WIND ENERGY CONVERSION UNIT/WIND TURBINE

Any tower, pole or other structure, whether attached to a building or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for the purpose of producing electricity.

WIND ENERGY CONVERSION UNIT/WIND TURBINE (LARGE PROJECT)

One or more towers, poles or other structures, whether attached to a building or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as a nacelle and generator for the purpose of producing electricity intended to provide wholesale electricity production for delivery on the local transmission network. Any wind energy conversion unit/wind turbine not meeting the definition of a wind energy conversion unit/wind turbine (small project) shall, for the purposes of this article, be considered a wind energy conversion unit/wind turbine (large project).

WIND ENERGY CONVERSION UNIT/WIND TURBINE (SMALL PROJECT)

- A. One or two towers, poles or other structures, whether attached to a building or freestanding, designed to be used for the support of a rotor that consists of blades and hub, as well as nacelle and generator for the purpose of producing electricity intended to reduce on-site consumption of utility power. Such towers shall be limited in height to 150 feet and to a power generating rating of 250 kw (kilowatts).
- B. Any wind energy conversion unit/wind turbine not meeting this definition shall, for the purposes of this article, be considered a wind energy conversion unit/wind turbine (large project).

WIND ENERGY OVERLAY DISTRICT

A district which encompasses part or parts of one or more underlying districts and that establishes requirements for wind energy conversion systems.

WIND MEASUREMENT TOWER

A tower used for the measurement of meteorological data such as temperature, wind speed, and wind direction.

§ 350-99. Creation of Wind Energy Overlay Zones.

- A. The Town Board of the Town of Barre hereby adopts the rules and procedures for creating Wind Energy Overlay Zones to allow consideration of the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), and to regulate or prohibit the placement of such systems so that the public health, safety and welfare will not be jeopardized.
- B. A Wind Energy Overlay District may be created in any zoning districts of the Town of Barre consistent with the rules and procedures established herein.
- C. Initial requests for Wind Energy Overlay Districts shall be submitted with applications for WECS special use permits. No Wind Energy Overlay District may be initially created without specific requests for special use permits for individual WECS.
- D. Once a Wind Energy Overlay District has been created, new WECS or accessory structures or facilities may be added in that district by grant of a special use permit pursuant to the requirements of this article.

§ 350-100. Permits and rezoning required; exemptions; transfer.

- A. The Town Board is hereby authorized to approve, approve with conditions, or disapprove wind energy conversion project applications with the advice and written recommendations of the Town Planning Board.
- B. No wind energy conversion system or any portion thereof shall be located or operated in the Town unless and in accordance with a special use permit duly issued by the Town Board under this article and the other applicable provisions of this chapter.
- C. No wind energy conversion system or any portion thereof shall be constructed, reconstructed, modified, or operated in the Town of Barre, except in a Wind Energy Overlay District, pursuant to an application for rezoning and for a special use permit and building permit approved pursuant to this article.
- D. The Town Board shall determine, on a case-by-case basis, based upon the specific aspects of the application and the complexity of the application, whether an independent professional engineer and/or consultant will be required to assist in the review of an application, including review of SEQRA documentation and outside legal services on behalf of the Town. If so determined that such independent professional or consulting services are required, the applicant shall be responsible for any and all fees associated with such services. The costs of such services shall be limited to the reasonable standard fees for such independent third party as determined upon review of such fees charged by such consultant in the Town and surrounding municipalities to the Town. Upon submission of the application, the Town shall obtain a good faith estimate of the fees to be charged by said independent third-party consultant and advise the applicant of said estimate of fees to which the applicant shall remit an amount to the Town equal to such estimate within 15 days of such demand. These funds

shall be held by the Town in trust to reimburse and be drawn upon by the Town when the Town incurs and pays the appropriate voucher for such third-party services. Should the fees for such third-party consultant exceed said estimated amount, the applicant shall immediately deliver and file with the Town an additional sum in an amount equal to the original estimated amount, or such sum as deemed appropriate and necessary to cover the remaining charges anticipated to be incurred by the Town thereafter. Any funds held in trust following completion of said third-party review shall be returned to the applicant upon presentation of a duly executed voucher seeking the same. If the applicant fails to pay any and all such fees incurred relative to such independent third-party services or the estimated fees to be deposited in trust with the Town prior to the date such fees are demanded to be paid by the Town to the Town, such failure shall constitute a withdrawal of the applicant's application under this article and thereafter such application shall be considered null and void by the Town for all purposes relative thereto.

- E. No wind measurement tower shall be constructed, reconstructed, modified or operated in the Town of Barre except pursuant to a special use permit and building permit issued pursuant to this article.
- F. Notwithstanding any other provisions of this article or other portions of this chapter, special use permits for wind energy conversion systems shall be issued by the Town Board.
- G. Transfer. No transfer of any wind energy conversion system or special use permit will occur without prior approval of the Town, which approval shall be granted upon written acceptance by the transferee of the obligations of the transfer or under this article, and the transferee's demonstration, in the sole discretion of the Town Board, that it can meet the technical and financial obligations of the transferor. No transfer shall eliminate the liability of the transferor nor of any other party under this article unless the entire interest of the transferor in all facilities in the Town is transferred and there are no outstanding obligations or violations.
- H. Notwithstanding the other requirements of this article, replacement in kind or modification of a wind energy conversion system may occur without Town Board approval when:
 - (1) There will be no increase in tip height;
 - (2) There will be no change in the location of any wind energy conversion unit or change in color to any such unit; and
 - (3) There will be no increase in noise produced by any such unit.

§ 350-101. Application procedure; waiver.

- A. The applicant for the proposed development of a wind energy conversion project shall submit 15 copies of the application and site plan showing the following information, unless such information requirements are waived by the Town Board for good cause shown. In addition, the Town Board may request, and the applicant shall provide, any and all additional information the Town Board and Town Planning Board might deem necessary for review of such application.
 - (1) Name of the project, an instrument survey map indicating boundary lines of the parcel (or parcels) that the project will include and the proposed site location(s), date, north arrow, scale of the plan, and Tax Map identification number(s). The maps shall include an overall map of the project, as well as individual site maps for each proposed wind energy conversion unit location.
 - (2) Name and address of the owner(s) of record of the parcel(s) where the project is proposed to be sited, name and address of the project sponsor and the seal, including the name and address of the engineer, architect, or surveyor preparing, or assisting in the preparation of, the site plan. If the property owner is not the applicant, the application shall include a letter, or other written permission, signed by the property owner:

- (a) Confirming that the property owner is familiar with the proposed application(s); and
 - (b) Authorizing the submission of the application(s).
- (3) Name and addresses of all property owners of record, as indicated in the Town Assessor's office, of all adjacent property owners to the project and all property owners of any and all parcels within the property setback requirements as specified in § **350-103A** of this article.
- (4) A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail and scale to clearly describe the following:
- (a) Property lines and physical dimensions of the site;
 - (b) Location, approximate dimensions and types of major existing structures, including all residences and uses on the site, public roads, and adjoining properties within 1,000 feet of the boundaries of the proposed Wind Energy Overlay Zone.
 - (c) Location and elevation of each proposed wind energy conversion unit.
 - (d) Location of all aboveground utility lines on the site or within one radius of the total (tip) height of the proposed wind energy conversion unit(s), transformers, power lines, interconnection point with transmission lines, microwave and communication towers, and other ancillary facilities or structures.
 - (e) Location of all structures, both residential and commercial, within 1,000 feet of each proposed tower. The distance from the center of the tower to any off-site residence within 1,000 feet shall be noted.
 - (f) All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units and fencing.
 - (g) Proposed boundaries of the Wind Energy Overlay Zone.
 - (h) The location, alignment and width of existing and proposed easements and rights-of-way.
- (5) A map showing existing and proposed topography at five-foot intervals.
- (6) Vertical drawing of the wind energy conversion system showing tip height, turbine dimensions, tower and turbine colors, ladders, distance between the ground and the lowest point of any blade, location of climbing pegs and access doors. One drawing may be submitted for each wind energy conversion system of the same type and total height.
- (7) A landscape plan showing all existing natural land features, trees, forest cover and all proposed permanent changes to these features, including size and type of plant material and erosion control measures, to be included in the project upon completion. Also to be included are temporary erosion control methods to be used during the construction of the WECS.
- (8) A fully completed State Environmental Quality Review Act (SEQRA)
Editor's Note: See Environmental Conservation Law § 8-0101 et seq.
environmental assessment form (EAF). If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information, at a minimum, shall be included in the draft environmental impact statement (DEIS) prepared for a wind energy conversion system. Otherwise, the following studies, at a minimum, shall be submitted with the application:
- (a) A visual impact study assessing the visibility of the project from key viewpoints relative to such project, existing tree lines, and proposed elevations. This study shall be digitally enhanced to simulate the appearance of the as-built project as such completed project would appear from distances specified by the Town Board or

Planning Board within a five-mile radius of the location of such project, or any portion thereof. Additional pictures from specific locations may be required by the Town Board or Planning Board, and all such pictures shall be in color and no smaller than five inches by seven inches.

- (b) The applicant shall provide a shadow flicker and blade glint study for the area within the boundaries of the parcel upon which the project, or any portion thereof, is to be sited and for any additional area located within a radius of one mile beyond the boundaries of each wind turbine. Such information shall include a shadow flicker zone map and documentation of the nonreflective coating for the blades. Accompanying such information shall be the proposed schedule with which the nonreflective coating for the blades shall be reapplied as based on the manufacturers suggested life of the coating product. The study will:
 - [1] Designate and describe the zones within the project where shadow flicker is likely to affect existing residential structures, roadways and other similar areas of public or private use. The study shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind direction and speed;
 - [2] Identify the most likely locations of shadow flicker, estimate the expected duration of such shadow flicker at these locations per day, and calculate the potential total number of hours per year at each location such shadow flickers may occur;
 - [3] Identify potential problem zones where shadow flicker may interfere with existing residences and roadways, and describe proposed measures to mitigate these problems, including, but not limited to, a change in siting of the unit, a change in operation of the unit, or grading or landscaping mitigation measures; and
 - [4] Provide tax identification numbers for all properties within the potential shadow flicker zones.
- (c) Noise analysis. The applicant shall provide a noise analysis prepared by a competent acoustical consultant documenting the noise level as associated with the proposed wind energy conversion system. The study shall predict noise levels at property lines and at the nearest residence not on the site (if access to the nearest residence is not available, the Town Board may modify this requirement). The noise analysis shall provide preexisting ambient noise levels and include low-frequency noise.
- (d) Property value analysis. This study shall be prepared by a licensed and certified real estate appraiser, in accordance with industry standards, regarding the potential impact of values of properties adjoining wind energy conversion system sites, including properties across public roads from the site.
- (e) An assessment of potential electromagnetic interference with microwave, radio, television, personal communications systems and other forms of wireless communication.
- (9) Tower design information sufficient to demonstrate compliance with wind-loading, and other applicable state and federal codes and requirements.
- (10) An analysis of potential ice-throwing and damage from blade throw impacts.
- (11) Documentation of the proposed intent and capacity of energy generation to be derived from the completed project. In addition, the applicant shall, prior to the receipt of a building permit, demonstrate that the proposed WECS meets system reliability requirements of the New York independent system operator, or provide proof that it has executed an interconnection agreement with the New York State independent operator and/or the applicable transmission owner.
- (12) Preliminary report prepared by the applicant describing:

- (a) Surrounding topography in relation to the capabilities for generation of electricity by wind and why the project site was selected for development.
 - (b) Required improvements for construction activities, including those within the public right-of-way or land controlled by the Town of Barre.
 - (c) Proposed mitigation measures for visual impacts of any and all components, structures, and materials related to the wind energy conversion project, including, but not limited to, wind energy conversion units, substation(s), meteorological (MET) towers, support structures and access roads.
 - (d) Proposed safety measures to mitigate any potential wind energy conversion unit failure.
 - (e) Documentation and justification for any proposed land clearing around structures within the project.
- (13) Elevation map showing the wind energy conversion unit's height and design, including a cross-section of the structure and components of the nacelle; statement of compliance documenting the unit's compliance with applicable structural standards; and the wind energy conversion unit's abilities in terms of producing energy.
- (14) Lighting plan. This must include location and type of lighting, as well as the expected impact on residential property within a five-mile radius of the project, and must be in compliance with Federal Aviation Administration (FAA) minimum lighting requirements. The application should include a copy of the determination by the FAA to establish required markings and/or lights for the structures. But if such determination is not available, at the time of the application, no special use permit or building permit for any lighted facility may be issued until such determination is submitted.
- (15) Decommissioning plan.
- (a) The applicant shall submit a decommissioning plan, which shall include at a minimum:
 - [1] The anticipated life of the wind energy conversion system;
 - [2] The estimated decommissioning costs in current dollars;
 - [3] How said estimate was determined;
 - [4] The method of insuring that funds will be available for decommissioning and restoration;
 - [5] The method, such by annual reestimate by a licensed engineer, that the decommissioning cost will be kept current;
 - [6] The manner in which the wind energy conversion system will be decommissioned and the site restored, which shall include removal of all structures and debris to a depth of three feet, or greater where required by other law, regulation or guideline, restoration of vegetation (consistent and compatible with surrounding vegetation) less any fencing or residual minor improvements requested by the landowner.
 - (b) The plan shall include the decommissioning bond required by this article.
 - (c) The decommissioning plan shall be in accordance with New York State Department of Agriculture and Markets regulations and guidelines where applicable.
- (16) Description of the applicant's twenty-year plan for the project that shall include the estimated market demand and long-term project expansion needs within the Town associated with the project for the duration of the required twenty-year plan.

- (17) Report showing soil logs and soil profile analysis for any area being disturbed as part of the project. The report shall indicate any anticipated need for blasting and the information relied upon for such anticipated blasting.
 - (18) Plans to prevent the pollution of surface water or groundwater, erosion of soil both during and after construction, excessive runoff, and flooding of other properties. The plan shall outline the following:
 - (a) The impact the project will have on surface runoff and erosion, groundwater and wells, including projected impact on existing downstream drainage infrastructure.
 - (b) Steps to mitigate any anticipated issues, including a stormwater pollution prevention plan (SWPPP) in accordance with NYSDEC General Permit requirements.
 - (c) Plans to revisit the project at no less than two-year intervals, for a period of four years, to confirm the impact was as anticipated and take corrective action if necessary
 - (19) The applicant shall, in consultation with the Town of Barre Volunteer Fire Department and Orleans County Hazardous Response Teams, establish an emergency preparedness plan, in the event of an emergency requiring immediate response or attention during the construction and operation of the wind energy conversion project or any portion thereof.
 - (20) The applicant shall present a spill containment response plan, to be implemented in the event of any environmental contamination resulting from, but not limited to, oil or other chemicals. A performance bond or other appropriate mechanism shall be required to deal with this situation.
 - (21) Proof of all required financial surety or other similar financial requirements relative to the project. Such proof may include, but is not limited to, proof of liability insurance, decommissioning funds, development mitigation funds and whatever other financial requirements relative to the application.
 - (22) Complaint resolution. The application will include a complaint resolution process to address complaints from nearby residents both during construction and while any WECS is in place. The process may use an independent mediator or arbitrator and include a reasonable time limit for acting on a complaint.
 - (23) An application shall include information relating to construction/installation of the wind energy conversion system as follows:
 - (a) A construction schedule describing commencement and completion dates;
 - (b) A WECS traffic routes plan addressing the standards set forth in § 350-103G(3) herein below.
 - (24) A statement, signed under penalty of perjury, that the information contained in the application is true and accurate.
- B. Waivers. In the case of applications for small WECS projects, the Town Board may reduce the required number of copies of the application to be submitted and may waive those application requirements set forth above that may not be relevant to the project.

§ 350-102. Application review process.

- A. Applicants may request a preapplication meeting with the Town Board or with any consultants retained by the Town Board for application review.
- B. Payment of all application fees shall be made at the time of application submission. If variances are requested, variance application fees shall also be paid at the time of application

submission.

- C. Town staff or Town-designated consultants shall, within 60 days of receipt, or such longer time if agreed upon by the applicant, determine if all information required under this article is included in the application.
- D. If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees application fees shall be required upon submitted of the additional information unless the number of wind energy conversion units proposed is increased.
- E. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board and the Town Planning Board. The applicant shall post the completed application and any accepted environmental impact statements on the Internet.
- F. The Town Board shall hold at least one public hearing on the application. Notice shall be given by first-class mail to property owners within 1,000 feet of the boundaries of the proposed Wind Energy Overlay District, and published in the Town's official newspaper, no less than 10 nor more than 20 days before any hearing, but where any hearing is adjourned by the Town Board to hear additional comments, no further publication or mailing shall be required. The Town will prepare the mailing and mail the notice of public hearing prepared by the Town. The assessment roll of the Town shall be used to determine mailing addresses.
- G. The public hearing may be combined with public hearings on any environmental impact statement or requested variances.
- H. Notice of the project shall also be given, when applicable, to:
 - (1) The Orleans County Planning Board, if required by General Municipal Law §§ 239-1 and 239-m, and
 - (2) To adjoining towns under Town Law § 264.
- I. SEQRA review. Applications for wind energy conversion systems are deemed Type I projects under the State Environmental Quality Review Act (SEQRA).
Editor's Note: See Environmental Conservation Law § 8-0101 et seq.
The Town shall conduct its SEQRA review in conjunction with other agencies, and the record of the review by said agencies shall be part of the record of the Town's proceedings. At the completion of the SEQRA review process if a positive declaration of environmental significance has been issued and an environmental impact statement prepared, the Town shall issue a statement of findings, which statement may also serve as the Town's decision on the application(s).
- J. Upon receipt of the report of the recommendations of the County Planning Board, where applicable, and the report of the recommendation of the Town Planning Board, where applicable, the holding of the public hearing, and the completion of the SEQRA process, the Town Board may approve, approve with conditions, or deny the application(s).

§ 350-103. Standards.

Wind energy conversion systems and all related structures thereto may be permitted to be constructed within the Town only upon receiving prior special use permit approval from the Town Board and issuance of building permits. The application for a special use permit shall only be granted if the application complies with the following requirements and such other reasonable conditions that the Town Board requires as part of any conditional approval issued hereunder:

A. Location. All wind energy conversion systems shall be located, erected and sited in accordance with the following requirements:

- (1) No individual wind energy conversion unit shall be installed in any location along the major axis of existing communications links or telephone transmission lines where the operation is likely to produce interference in said link's operation. If such problem is found to exist, such problem shall be resolved at the applicant's sole and complete expense to the satisfaction of the property owner and/or the Town Code Enforcement Officer.
- (2) No individual wind energy conversion unit shall be installed in any location where such unit's proximity with existing fixed broadcast, or reception antenna (including residential reception antenna or satellite system) for radio, television or wireless phone or other personal communication systems where such unit would produce interference with signal transmission or reception. The applicant shall correct (or document significant progress toward corrective action on) any unforeseen interference to the satisfaction of the Code Enforcement Officer within 30 days of any complaint being given to the applicant by the Code Enforcement officer or affected person. To correct such problem:
 - (a) The applicant shall provide the affected person(s) with service equal to or better than the service that was interrupted, or an acceptable alternative to such service has been agreed to by the Code Enforcement Officer and the affected property owner.
 - (b) If emergency service needs have been affected, such problem shall be remedied by the applicant within 36 hours of notification being given to the applicant by the Code Enforcement Officer or affected person.
- (3) All wind energy conversion units shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
- (4) No individual wind energy generating unit shall be installed in any location where it may interfere with the normal flight patterns at area airports and private airstrips.
- (5) Wind energy conversion systems and related infrastructure shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations.
- (6) The use of guy wires is prohibited except in the case of a wind energy conversion unit/wind turbine (small project).
- (7) No advertising signs, or television, radio, cellular telephone or other communication antennas are allowed on any part of the wind energy conversion system, including fencing and support structures. Signage to inform persons of ownership and contact information is permitted so long as such signage is erected in accordance with Town Law.
- (8) All wind energy conversion units shall only be located, installed, or constructed on the subject parcel in accordance with the following setbacks:
 - (a) A distance not less than 1.5 times the tip height of the wind energy generating unit as measured from any and all public roadways or aboveground power lines in the vicinity of said unit, to the base of such unit.
 - (b) A distance not less than 1,000 feet from any existing residential or commercial building. This distance may be reduced for WECS small projects.
 - (c) A distance not less than 1.5 times the tip height of the wind energy generating unit as measured from the property lines of the parcel on which said unit is to be sited.

B. Noise.

- (1) The level of noise produced by or from the operation of the wind energy conversion system shall not exceed 45 dBA 10 (which means the 45 dBA may statistically be

exceeded only 10% of the time six minutes of every hour) measured at a distance of 1,000 feet from the base of the wind energy conversion unit or that portion of the wind energy conversion system causing the noise level that is in violation of these requirements. During any allowed period of sound level exceedence, as set forth hereinabove, the noise level shall not exceed 51 dBA.

- (2) In the event that 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 not exceeded for more than six minutes per hour (L 90). Ambient noise levels shall be measured at a distance of 1,000 feet from the base of the wind energy conversion unit. 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 30 mph at the ambient noise measurement location.
- (3) Any noise level falling between two whole decibels shall be the lower of the two.

C. Emergency shutdown/safety operations.

- (1) The applicant shall file emergency contact information, including, but not limited to, a telephone number and unique identification number, for each wind energy conversion unit with the Town Clerk. At least one sign shall be posted at the base of each tower warning of electrical shock or high voltage. A sign shall be posted on the entry area of the fence around each tower or group of towers and any building (or on the tower or building if there is no fence) containing emergency contact information, including a local or toll-free telephone number with twenty-four hour, seven-day-a-week coverage. The Town Board may require additional signs based on safety needs.
- (2) Each wind energy conversion unit shall have an automatic manufacturer certified or engineer certified braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components or nacelle.

D. Lighting.

- (1) No wind energy conversion unit shall be artificially lighted unless such lighting is required by a local, state or federal statute, rule or regulation. The use of nighttime and overcast daytime condition stroboscopic lighting shall be the minimum required by law to satisfy the lighting requirements as issued by the Federal Aviation Administration.
- (2) Light shields, if commercially available, or other devices to mitigate or control light pollution/spilling of light shall be used to minimize the amount of light visible at ground level. The applicant shall submit a study of the potential impact of the proposed aviation, security and operational lighting, as well as any required alterations as determined and required for approval hereunder, on the area surrounding the subject project.
- (3) Prior notification of any changes in the lighting plan for the project must be communicated to the Town Planning Board prior to installation of such new lighting scheme, and such alterations shall only be approved for installation for good cause shown or in order to bring such project into compliance with any and all statutory and regulatory requirements.
- (4) If the minimum lighting requirement, as determined by applicable federal, state or local rules, regulations or statutes, change during the course of operation of the wind energy conversion system, the applicant shall alter the lighting plan and install such lighting in the wind energy conversion system that is at a level equal to such revised minimum requirements.

E. Utility service.

- (1) All power transmission lines servicing the project or any portion thereof shall be underground to a minimum depth of 48 inches or to such depth as required by applicable state and federal regulations and codes, whichever is greater. If this standard is deemed to be technically infeasible, rationale and alternative solutions and designs shall be submitted with the completed application for review and approval by the Town Board. Such approval shall be granted if such alternative is deemed acceptable by the Town Board based upon substantial evidence in the record ensuring such alternative provides the level of protection and safety afforded by the standard set forth hereinabove.
- (2) In the unlikely event of a stray voltage occurrence, the applicant shall be notified, and corrective action shall be taken immediately by the applicant fully remedying such occurrence.

F. Blade sweep and tip height. The minimum height of the lowest part of the blade sweep area shall be 30 feet above the highest existing major structure or tree within a one-hundred-fifty-foot radius of the base of the wind energy conversion unit. The total tip height for each wind energy conversion unit cannot exceed 500 feet as measured from the base of the unit to the tip of the unit's longest blade.

G. Access roads and road mitigation.

- (1) In an effort to minimize curb cuts, existing roadways shall be used for access to the site whenever possible.
- (2) If existing roadways are not practicable to be utilized for such access, any necessary new roadway shall be constructed in a way so that they are level to the surrounding environment. Unless the landowner upon which such new access road is located signs a waiver requesting such property not be gated, new access roads constructed from existing roadways shall be gated and locked near the vicinity of the intersection of the access road and the existing roadway with breakaway gates allowing emergency access to the roadway.
- (3) Construction of WECS poses potential risks because of the large size construction vehicles and their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include: 1) minimizing traffic impacts from construction and delivery vehicles; 2) minimizing WECS-related traffic during times of school bus activity; 3) minimizing wear and tear on local roads; and 4) minimizing impacts on local business operations. Special use permit conditions may require documentation of road conditions prior to and following construction from the Town Highway Superintendent, remediation during construction, limit WECS-related traffic to specified routes, and include a plan for disseminating traffic route information to the public and all applicable state, county and municipal highway authorities and superintendents whose roads are included in the WECS traffic routes plan. Notification to all applicable highway authorities and superintendents will include the number and type of vehicles and their size, their maximum gross weight, the number of round trips per day and the dates and time periods of expected use of designated traffic routes. The applicant shall obtain any necessary road use agreements with agencies and municipalities over whose roads and rights-of-way will be used in the construction or reconstruction of any WECS, and provide documentation of same to the Town.
- (4) The applicant, or its successor, is responsible for remediation of damaged roads upon completion of the installation or maintenance of a 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.

- (5) If the applicant or successor uses any seasonal use highway in the off season, it shall be solely responsible for the maintenance of said highway, including, but not limited to, snowplowing. No acts of maintenance on a seasonal use highway by an applicant or successor shall be considered as Town maintenance of that highway for purposes of determining the seasonal use status of the highway.
- H. Accessory structures/facilities. Transmission facilities and/or buildings shall be located along roadways, below ridgelines or behind vegetation to screen such facilities and/or buildings from visibility. If such a facility or building is to be located in or along the side of an open field, the facility or building shall be landscaped in such a way as to blend such facility or building in with the surrounding environment.
 - I. Security. To secure each and every wind energy conversion unit so constructed within the Town, each such unit shall:
 - (1) Not have any climbing pegs, tower ladders or other climbing device of any kind attached to the wind energy conversion unit closer than 15 feet from the ground.
 - (2) Have a locked anticlimbing device installed on the unit.
 - (3) If the property owner submits a written request that fencing be required, a minimum 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.
 - (4) WECS shall be designed to prevent unauthorized external access to electrical and mechanical components, and shall have access doors that are kept securely locked.
 - (5) Accurate maps of the underground facilities shall be filed with the Town and with "Dig Safely New York" (1-800-962-7962) or its successor.
 - J. Shadow flicker. The wind energy conversion system shall be designed such that shadow flicker from an individual wind energy conversion unit will not fall on any specific area of a roadway or a portion of a residential structure in excess of 25 hours per year. If an individual residence is being impacted by multiple wind energy conversion units, the cumulative affect of said impact shall not exceed 25 hours per year. If shadow flicker exceeds these conditions, the source wind energy conversion unit shall be shut down until the offending condition is remedied.
 - K. Environmental contamination by oil or other chemicals. The applicant of a wind energy conversion system, after such application has been approved and before a special use permit is issued, shall submit the maximum amount letter of credit or other mechanism necessary to ensure the cleanup of any contamination according to DEC requirements. The Town Board and the Attorney for the Town shall judge the letter of credit or other surety as adequate and satisfactory before such a special use permit is granted.
 - L. Below-grade foundations. The foundation top of each wind energy conversion unit shall be buried to a depth of four feet below ground, or to the specifications of the New York State Department of Agriculture and Markets guidelines, whichever is greater, to enable use of the land for farming/agriculture during the life of the project.
 - M. Construction hours. No construction or reconstruction of any WECS shall begin before 6:00 a.m. nor end after 8:00 p.m. Except in cases of emergencies, all maintenance of WECS shall take place within those same time frames.
 - N. Removal of solid waste. The applicant/operator of a WECS shall remove and properly dispose of any solid waste or other unused construction materials in accordance with applicable laws and regulations.
 - O. Post installation.

- (1) On an annual basis a post-installation field report identifying the wind energy conversion system's generation of electricity and impacts upon the environment, including, but not limited to, any adverse drainage patterns then existing, sites of erosion in vicinity of the system, and other potential adverse environmental conditions, shall be submitted by the applicant to the Town Board. The report shall also include any and all work-related calls logged by the applicant, and any other reasonable items that may be requested by the Town Board. This report shall be filed with the Town Clerk annually in the month of June for review at the July Town Board meeting.
- (2) If it is determined that any wind energy conversion system or portion thereof is operating outside the parameters of the zoning requirements and conditions of approval, the applicant shall be notified, and any and all necessary remedies implemented. If the problem cannot be remedied within an appropriate amount of time, based on its nature and severity, the Code Enforcement Officer may require the wind energy conversion system or portion thereof be shut down until such repairs can be affected. If the applicant and the Code Enforcement Officer are unable to agree on an appropriate time or method for remedying such problem, either party shall ask the Town Board to determine such a reasonable time or method of remedy, which determination shall be final unless successfully appealed to the Orleans County Supreme Court by way of a Civil Practice Law and Rules § 78 proceeding, which said petition must be filed with said Court within 30 days of the issuance of the determination by the Town Board being so appealed.
- (3) Safety issues deemed to be of an imminent significant threat to the health, safety and/or welfare of any person affected by the wind energy conversion system or any portion thereof, as determined by the Code Enforcement Officer, shall require the immediate shut down of the wind energy conversion system or portion thereof until corrective action is taken and the imminent significant threat fully mitigated.
- (4) In the event a wind energy conversion system or portion thereof requires attention, whichever entity is notified first, the applicant or the Code Enforcement Officer, such entity shall immediately contact the other party to report the matter being attended to.

§ 350-104. Waivers for noise and setback requirements; easements; variances.

- A. In the event the noise levels resulting from a WECS exceed the criteria established in this article, or a setback requirement is not met, a waiver is hereby granted from such requirement where the property adjacent to that hosting the wind energy conversion unit is also part of the WECS site due to hosting a wind energy conversion unit or other ancillary components.
- B. Written consent from the affected property owners shall be obtained stating that they are aware of the WECS and the noise and/or setback limitations imposed by this article, and that they wish to be a part of the site as defined herein, and that consent is granted to:
 - (1) Allow noise levels to exceed the maximum limits otherwise allowed; or
 - (2) Allow distance setbacks less than required; and
- C. In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, shall be recorded in the County Clerk's office describing the benefitted and burdened properties. Such easements shall be permanent and 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 benefitted WECS in accordance with this article, or the acquisition of the burdened parcel by the owner of the benefitted parcel or the WECS.
- D. In any case where written consent is not obtained, and, therefore, a property is not part of the site, a variance from the Zoning Board of Appeals shall be required.

§ 350-105. Decommissioning.

- A. Prior to application approval, the applicant shall be referred to the Town Board for determination of any financial surety required in accordance with § **350-101** of this article.
- B. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town for the removal of nonfunctional towers and appurtenant facilities in an amount to be determined by the Town for the period of the life of the wind energy conversion system. 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 and/or its successor.
- C. The applicant shall notify the Code Enforcement Officer within 30 days of the discontinuance of use of the wind energy conversion system or any portion thereof. Should the applicant fail to notify the Town Code Enforcement Officer as required, the applicant shall be subject to all penalties provided under this article and the following additional penalties: \$200 per day from the time the applicant should have notified the Town Code Enforcement Officer and the date the wind energy conversion system or portion thereof is removed or made operational as set forth under Subsection **E** of this section.
- D. Should the wind energy conversion system or any portion thereof not operate for a total period of 60 days within any ninety-day period, the Town shall notify the applicant that such offending wind energy conversion system or portion thereof shall be removed or made operational as provided in Subsection **E** of this section.
- E. The applicant shall remove any discontinued, decommissioned, obsolete or unused wind energy conversion system or portions thereof and restore the site to preconstruction conditions, or make the wind energy conversion system or portion thereof fully operational, within 90 days of delivery or receipt of the notification set forth in Subsection **D** of this section, unless such time limit is extended by the Town Board for good cause shown, but the total period shall not exceed 180 days. Nonfunction or lack of operation may be proven, among other means, by reports to the Public Service Commission, NYSERDA, or by lack of income generation. The applicant or its successor shall make available (subject to a nondisclosure agreement, if requested) 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 system is functioning, which reports may be redacted as necessary to protect proprietary information.
- F. Prior to the expiration of this time, the applicant may apply to the Town Board for a further extension in time for which such wind energy conversion system or portion thereof needs to be removed or made operational, up to an additional time of 180 days. Such extension shall only be granted if the applicant demonstrates good cause that such extension is necessary as a result of uncontrollable events such as weather delays, repair delays or other similar conditions requiring the need for such extension.
- G. Failure to notify and/or remove any discontinued, decommissioned, obsolete or unused wind energy conversion system or portion thereof in accordance with this article shall be in violation of this article and subject the applicant to the penalties set forth herein. In addition, the cost of removing the offending wind energy conversion system or portion thereof shall be drawn against the financial surety posted by the applicant for demolition or decommissioning of the project as set forth in this section.
- H. Any costs incurred by the Town that exceeds the amount of such financial surety or not be covered by said surety shall be the complete and sole responsibility of the applicant. If the applicant is insolvent and such costs cannot be practicably collected from said applicant, then such costs shall become a lien upon the property upon which the costs were incurred and said lien shall thereafter be assessed on the next succeeding year's tax bill for such parcel and collected in accordance with normal tax foreclosure proceedings if such tax bill remains unpaid thereafter.

- I. Upon completion of all such removal activities by the Town, any remaining portion of the posted surety shall be returned to the applicant forthwith.

§ 350-106. Other operating considerations; permit revocation.

- A. Landscaping. Upon completion of installation, the site shall be returned as close as possible to its natural state, and in conformity with applicable state and federal regulations and guidelines, including, but not limited to, restoring the subsoil and topsoil to preconstruction condition and reforestation of at least 40% for any woodlands that have been cleared.
- B. Building and grounds maintenance. Any damaged or unused parts shall be removed from the premises within 30 days or stored in a locked on-site storage building. All maintenance equipment, spare parts, oil or chemicals (cleaning, pesticides, fuels) shall also be stored in said on-site locked storage building.
- C. Testing and inspection fund. A special use permit shall contain a requirement that the applicant, or successor, fund periodic structural inspections and noise testing by a qualified, independent, third-party 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 inspections and noise testing shall be to demonstrate compliance with the terms and conditions of the special use permit and this article, and shall also include an evaluation of any complaints received by the Town. The applicant or successor shall have 90 days, after written notice from the Town Board, to cure any deficiency. Any extension of the ninety-day period may be considered by the Town Board, but the total period may not exceed 180 days.
- D. Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other special use permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a special use permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant, or successor, shall have 90 days, after written notice from the Town Board, to cure any deficiency. Any extension of the ninety-day period may be considered by the Town Board, but the total period may not exceed 180 days.
- E. Revocation of special use permit. Notwithstanding any other abatement provision under this article, if the WECS is not repaired or made operational, or brought into special use permit compliance after notice and within the time limitations set forth above, the Town may, after a public meeting at which the operator or owner shall be given an opportunity to be heard and present evidence, including a plan to come into compliance : 1) order either remedial action within a particular time frame; or 2) order revocation of the special use permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the decommission plan to remove the WECS.

§ 350-107. Certifications.

- A. Routine inspection report. An inspection report prepared by an independent professional engineer licensed in the State of New York shall be required at the completion of the installation of the wind energy conversion system. Said inspection report shall certify the wind energy system and any portion thereof complies with all manufacturing specifications and any and all rules, regulations and statues pertaining thereto. Said inspection report shall be filed with the Code Enforcement Officer and the Town Clerk.
- B. Insurance liability. Prior to the issuance of a building permit regarding an approved wind energy conversion system, the applicant shall file with the Town proof, in the form of a duplicate

insurance policy or a certificate issued by an insurance company, of liability insurance in a reasonable level as determined by the Town Board in consultation with the Town's insurer, guided by industry standards, to cover damage or injury which might result from the wind energy conversion system or any portion thereof. Such liability insurance shall also name the Town and the current property owner of record as an additional insured, unless said property owner waives such coverage in writing.

- C. National and state standards. In addition to any requirements of this article, the applicant shall show that all applicable manufacturer's, New York State and U.S. standards and guidelines for the construction, operation and maintenance of the proposed wind energy conversion units have been met or are in compliance. Wind energy conversion units shall be built, operated and maintained to applicable industry standards, including, but not limited to, the Institute of Electrical and Electronic Engineers (IEEE), the International Electrotechnical Commission (IEC) and the American National Standards Institute (ANSI).
- D. Continuing obligations. All requirements detailed in this article shall remain in full force and effect for the duration of the granted special use permit.

§ 350-108. Wind measurement towers.

- A. Wind site assessment. The Town Board acknowledges that prior to construction of a WECS, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of wind measurement towers, also known as anemometer ("met") towers, shall be permitted as special use in the Town.
- B. Applications for wind measurement towers. An application for a wind measurement tower shall include:
 - (1) The name, address and telephone number of the applicant.
 - (2) The name, address and 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:
 - (a) Confirming that the property owner is familiar with the proposed application(s); and
 - (b) Authorizing the submission of the application(s).
 - (3) The address of each proposed tower site, including Tax Map number.
 - (4) Site plan.
 - (5) Decommissioning plan based on the same criteria for WECS, including a security bond or cash for removal.
- C. Standards for wind measurement towers.
 - (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.
 - (2) Special use permits for wind measurement towers may be issued by the Town Board for a maximum period of up to three years. Special use permits shall be renewed annually if the facility is in compliance with the conditions of the special use permit.

§ 350-109. Penalties for offenses.

- A. Any person who violates or knowingly permits the violation of this article shall be punishable as provided in § **350-8** of this chapter. Further, every day such violation is determined to have existed shall be deemed to constitute a separate and additional offense for which the person may be subject to the penalties set forth herein for each and every day such violation so existed.

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- B. In the case of any violation or threatened violation of any of the provisions of this article, including the terms and conditions imposed by any permit issued pursuant to this article, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent the unlawful erection, structural alteration, reconstruction, moving, and/or use and to restrain, correct, or abate such violation to prevent the illegal act.

§ 350-110. Fees.

- A. There shall be nonrefundable application fees for each of the following categories, to be fixed by resolution of the Town Board from time to time:
- (1) Wind Overlay Zone.
 - (2) WECS special use permit.
 - (3) Wind measurement towers.
 - (4) Wind measurement tower special use permit renewals.
 - (5) Private wind turbine tower.
 - (6) The cost of all legal notices and mailings shall be assessed to the applicant.
- B. Building permits. The Town believes the review of building and electrical permits for WECS requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be increased by administrative costs which shall be fixed by resolution of the Town Board from time to time but no less than \$100 per permit request, plus the amount charged to the Town by the outside consultants hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans or certifications, or to conduct inspections as agreed by the parties.
- C. Nothing in this section shall be read as limiting the ability of the Town to enter into host community agreements with any applicant. The applicant, or its successors, shall be required to pay the Town a host community fee annually to compensate the Town for expenses or impacts on the community. The amount of the host community fee shall be determined by applying a rate per MW (megawatt), or part thereof, of rated maximum generation capacity per year, prorated for any portion of a year of energy production. The host community fee may be in addition to any payment in lieu of taxes which may be authorized to be collected by the Town pursuant to § 487 of the Real Property Tax Law of the State of New York. The amount of the host community fee will be determined by the Town Board from time to time but not more frequently than annually. All such fees shall be negotiated and determined prior to the approval and issuance of a special use permit for any WECS.
- D. The Town shall require any applicant to enter into an escrow agreement to pay the engineering and legal costs of any application review, including the review required by SEQRA.

§ 350-111. Tax exemption.

The Town hereby exercises its right to opt out of the tax exemption provisions of the Real Property Tax Law § 487, pursuant to the authority granted by Subdivision 8 of that law.

Local Law Filing

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

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

**FILED
STATE RECORDS**

MAR 29 2019

DEPARTMENT OF STATE

County City Town Village

(Select one.)

Of Shelby

Local Law No. 1 of the year 20 19

A local law: A Local Law Regulating Solar Energy Systems

(Insert Title)

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

County City Town Village

(Select one.)

Of Shelby

as follows:

See Attached

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 _____ of 2019 of the (County)(City)(Town)(Village) of Shelby _____ was duly passed by the Town Board On March 12, 2019, in accordance with the applicable (Name of Legislative Body) provisions of law.

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

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

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20 _____ (Elective Chief Executive Officer*)

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

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

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

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

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

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

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

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

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

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

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

Date: March 25, 2019

(Seal)

Town of Shelby
Local Law 1 of the Year 2019
A Local Law Regulating Solar Energy Systems

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

Section 1. Title

This Local Law shall be referred to as the “Solar Energy Systems Law of 2019”.

Section 2. Repeal of Prior Solar Energy Systems Law

The Town previously enacted Local Law No. 2 of 2016 regulating Solar Energy Systems and amend the Zoning Local Law to add sections Section 699-A and Section 787. Local Law No. 2 of 2016 is hereby repealed. This local law supersedes any requirement of Local Law No 2 of 2016 and Zoning Local Law Sections 699-A and 787.

Section 3. Amendment to Section 787.

Zoning Local Law Section 787 shall be amended as follows:

A. Findings.

The Town Board of the Town of Shelby (the “Town Board”) makes the following findings:

1. The Town Board finds that solar energy, as properly regulated, is clean, readily available and renewable energy source beneficial to the Town of Shelby, its residents and general public.
2. The Town Board, nevertheless, finds a growing need to properly site and regulate solar energy systems within the boundaries of the Town of Shelby to protect residential, business areas and other land uses, to preserve the overall beauty, nature and character of the Town of Shelby, to promote the effective and efficient use of solar energy resources, and to protect the health, safety and general welfare of the citizens of the Town of Shelby.
3. Solar energy systems deplete land available for other uses, introduce industrial usage into other non-industrial areas, and can pose environmental challenges and compete with other activities.
4. Solar energy systems need to be regulated for removal when no longer utilized, to prevent environmental problems and the creation of abandoned industrial sites.

B. Definitions.

The following definitions shall apply to this Section:

APPLICANT - The person or entity filing an application and seeking an approval under this Section; the owner of a solar energy system or a proposed solar energy system project; the operator of a solar energy system or a proposed solar energy system project; any person acting on behalf of an applicant, solar energy system or proposed solar energy system. Whenever the term "applicant" or "owner" or "operator" are used in this Section, said term shall include any person acting as an applicant, owner or operator.

SMALL BUILDING MOUNTED SOLAR ENERGY SYSTEMS - A solar energy system that is affixed to the side(s) of a building either directly or by means of support structures or other mounting devices, but not including those mounted to the roof or top surface of a building and designed and intended to generate electricity solely for use primarily on said building or other buildings on the same premises, through a distribution system that is not available to the general public.

SMALL GROUND MOUNTED SOLAR ENERGY SYSTEM - A solar energy system that is affixed to the ground either directly or by support structures or other mounting devices. Said system is an accessory structure, designed and intended to generate electricity primarily for use on said lot, through a distribution system that is not available to the general public.

SMALL ROOFTOP MOUNTED SOLAR ENERGY SYSTEM - Any solar energy system that is affixed to the roof of a building and wholly contained within the limits of the roof surface, designed and intended to generate electricity primarily for use on said lot, potentially for multiple tenants, through a distribution system that is not available to the general public.

SOLAR ENERGY SYSTEM - Any system or group of components designed to produce power from the sun and affixed to real property, except self-contained, single purpose components, such as signage lighting panels.

UTILITY-SCALE SOLAR ENERGY SYSTEM - Any solar energy system that is designed and intended to supply energy primarily into a utility grid for sale to the general public, whether or not it also supplies energy for use on the parcel of land on which it is located.

C. Use districts where allowed.

No solar energy systems shall be permitted in the Town of Shelby except in the Zoning Districts specified in this Section:

1. Rooftop mounted and building-mounted solar energy systems are permitted in all zoning districts in the Town, subject to setback and height restrictions.

2. Ground mounted solar energy systems are permitted as accessory structures in all zoning districts of the Town subject to all setback, height and area coverage restrictions.
3. Utility-scale solar energy systems permitted only in an Agricultural/Residential District, General Business, Hamlet, Industrial, Light Industrial, and Rural Residential District.

D. General Regulations.

The placement, construction, and major modification of all solar energy systems within the boundaries of the Town of Shelby shall be permitted only as follows:

1. Utility-scale solar energy systems shall be permitted only by Special Permit by the Town Board in use districts where allowed in accordance with the criteria established in this Section, after SEQRA review, upon concurrent site plan approval issued by the Town of Shelby Planning Board, and upon issuance of a building permit, and shall be subject to all provisions of this Section.
2. Small rooftop mounted and small building mounted solar energy systems shall follow normal building permit procedures.
3. Small ground mounted solar energy systems shall follow normal building permit procedures, and must be accompanied by a scale map showing location, setbacks and lot coverage.
4. This Section shall supersede over any inconsistent provisions of the Zoning Law of the Town of Shelby.
5. This Section shall not apply to any premises owned or controlled by the Town of Shelby.

E. General Criteria.

1. Rooftop mounted solar energy systems shall not be more than three feet higher than the finished roof to which it is mounted and in no instance shall any part of the system extend beyond three (3) feet before the edge of the roof. Maintenance access shall be incorporated into the system as determined by the Building Inspector.
2. Building-mounted solar energy systems shall not be more than three (3) feet from the building wall and in no instance shall any part of the system extend beyond the roof line or parapet wall.
3. Ground mounted solar energy systems shall be subject to the following requirements:
 - a. The location of said solar energy system shall be placed no closer in accordance with setback requirements for an accessory structure of the use district in which it is located; and

- b. The location of said solar energy system shall be only located in the side or rear yard;
 - c. The total surface area of said solar energy system on a lot shall not exceed the allowed accessory structures or combinations of accessory structures where permitted in the District.
4. Solar storage batteries. When solar storage batteries are included as part of any solar energy system, they shall be placed in secure container or enclosure meeting the requirements of the New York State Building Code.
 5. Any solar energy system shall be accessible by all emergency service vehicles and personnel.
 6. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
 7. The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks.
 8. Artificial lighting of any solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.

If the use of a solar energy system is discontinued or not maintained the owner or operator shall notify the Building Inspector within thirty (30) days of such discontinuance and shall remove the system and properly dispose of all materials. If a solar energy system is to be retained and reused, the owner or operator shall further inform the Building Inspector of this in writing at such time and obtain any necessary approvals within one year, otherwise it shall be automatically deemed non-operating or abandoned.

F. Special Permit Requirements for Utility-Scale Solar Energy Systems.

Applications under this Section shall be made as follows: Applicants for a special permit to place, construct, and make a major modification to a utility-scale solar energy system within the boundaries of the Town of Shelby shall submit twelve (12) sets of the following information to the Building Inspector, who shall first present it to the Town Board and the Town designated professional engineer or consultant for an initial review. The Town Board shall refer the matter to the Planning Board and may make such additional referrals as it deems appropriate. No such application shall be deemed filed until any required application fee has been paid. After considering such application in accordance with this Section, the Town Board may grant the application, deny the application or grant the Special Use Permit, deny the Special Use Permit or grant the Special Use Permit and impose reasonable conditions and restrictions as authorized by Town Law §274(b)(4). The following information shall be contained in or accompany the application:

1. A completed State Environmental Quality Review Act (SEQRA) form.

2. Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include the name, address, and telephone number of the applicant and a letter or other written permission signed by the property owner authorizing the applicant to represent the property owner.
3. Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.
4. Documentation of the clearing, grading, storm water and erosion control plans.
5. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection.
6. One or three-line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all disconnects and over-current devices.
7. A property owner who has installed or intends to install a utility-scale solar energy system may choose to negotiate with other property owners in the vicinity for any necessary solar skyspace easements. The issuance of a special use permit does not constitute solar skyspace rights, and the Town shall not be responsible for ensuring impermissible obstruction to the solar skyspace as a result of uses or development performed in accordance with Town Code. In the event that solar easements are negotiated by an applicant or property owner for a utility-scale solar energy system, a copy or documentation of any solar skyspace easements shall be provided, properly recorded as such, negotiated with neighboring property owners that shall, at a minimum, include:
 - a. The restrictions placed upon buildings, structures, vegetation and other objects or uses that would potentially obstruct the solar skyspace of the solar energy system; and
 - b. A description of the dimensions of the easement expressed in measurable terms, such as the maximum height of buildings and structures, vertical or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector may not be obstructed, or a combination of these descriptions; and
 - c. The amount, if any, of permissible obstruction of the solar skyspace through the easement, expressed in measurable terms, such as a specific percentage of the solar skyspace that may be obstructed or hours during the day; and
 - d. Provision for trimming vegetation that would impermissibly obstruct solar skyspace, including any compensation for trimming expenses; and
 - e. Provisions for compensation of the owner/operator benefitting from the easement in the event of impermissible obstruction of the solar skyspace that would be in violation of the easement; and

- f. The terms or conditions, if any, under which the easement may be revised or terminated.
8. A site plan in accordance with the Town of Shelby's site plan requirements and drawn in sufficient detail as follows:
 - a. Plans and drawings of the solar energy system installation signed by a professional engineer registered in New York State showing the proposal layout of the entire solar energy system along with a description of all components, whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved, and utility lines, both above and below ground, on the site and adjacent to the site; and
 - b. Property lot lines and the location and dimensions of all existing structures and uses on site within five hundred (500) feet of the solar panels; and
 - c. Proposed fencing and/or screening for said project.
 9. Any such additional information as may be required by the Town Board, Town's professional engineer or consultant, Planning Board, Town Attorney, Building Inspector.

G. Special Permit Criteria; Restrictions.

Special Permits issued for utility-scale solar energy systems shall meet the following conditions:

1. Minimum lot area: The minimum lot upon which the system is to be constructed shall be fifteen (15) acres.
2. Maximum coverage area: The maximum coverage area of the system shall be fifty (50) acres.
3. Setbacks: Any utility-scale solar energy system shall adhere to the following setbacks:
 - a. From any zoning district boundary.
 - b. From any property lot lines: A minimum of one hundred (100) feet from any property lot line.
 - c. From buildings or structures not on the lot proposed for the solar energy system:
 - i. A minimum of two hundred and fifty (250) feet.
 - ii. A minimum of five hundred (500) feet from any dwelling.
 - d. From buildings or structures on the lot proposed for the solar system: A minimum of one hundred (100) feet from any building, structure or dwelling.
 - e. From public roads:

- i. A minimum of two hundred (200) feet from any public road (measured from the road right-of-way line); and,
 - f. From schools, public parks: A minimum of five hundred (500) feet from all property lot lines bordering a school or public park.
4. Maximum overall height. The height of a utility-scale solar energy system shall not exceed twenty (20) feet when oriented at maximum tilt.
5. Number of utility-scale solar energy systems allowed per lot. There shall only be allowed one utility-scale solar energy systems per lot.
6. A utility-scale solar energy system shall adhere to all applicable federal, state, county and Town of Shelby laws, regulations, building, plumbing, electrical, and fire codes, and the applicant shall provide any requested documentation of such correspondence.
7. Development and operation of a utility-scale solar energy system shall not have a significant adverse impact on fish, wildlife, or plant species or their critical habitats, or other significant habitats identified by the Town of Shelby or other federal or state regulatory agencies.
8. The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists.
9. All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth-tone color.
10. All transmission lines and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code and Town requirements. The applicant is required to show the locations of all proposed overhead and underground electric utility lines, including substations and junction boxes and other electrical components for the project on the site plan.
11. All transmission lines and electrical wiring shall be in compliance with the utility company's requirements for interconnection.
12. Artificial lighting of utility-scale solar energy systems shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
13. Any signage used to advertise the solar energy facility shall be in accordance with the Town's signage regulations and shall not be illuminated.
14. A berm and/or screening may be required along property line abutting a residential lot.

15. Prior to issuance of a Certificate of Occupancy, the applicant shall provide a post-construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans.
16. Compliance with regulatory agencies: The applicant is required to obtain and maintain all necessary regulatory approvals and permits from all federal, state, county, and local agencies having jurisdiction and approval related to the completion of a utility-scale solar energy system.
17. A bond or other appropriate form of security acceptable to the Town Board shall be provided to cover the cost of the removal and site restoration. Said bond or security shall be filed prior to construction. Said bond shall not be revocable and shall extend for a period of not less than:
 - a. The actual removal and restoration without limit as duration.
 - b. Shall transfer to cover any subsequent owner or operator of the system.
18. Clearing, grading, storm water and erosion control:
 - a. Before the Town of Shelby shall issue a clearing, grading, storm water or building permit for a utility-scale solar energy system, the applicant shall submit a storm water and Erosion Control Plan to the Engineering Department for its review and approval; and
 - b. The Plan shall minimize the potential adverse impacts on wetlands and Class I and II streams and the banks and vegetation along those streams and wetlands and minimize erosion or sedimentation.

H. Maintenance, Procedures, and Fees.

1. Time limit on completion. Upon the granting of a special permit of a utility-scale solar energy system by the Town Board, the building permit shall be obtained within six months and the project shall be completed within twelve months of the granting of the Special Use Permit. If not constructed, the special permit and site plan approval and building permit shall automatically lapse without notice.
2. Inspections. Upon reasonable notice, the Town of Shelby Building Inspector or his or her designee may enter a lot on which a solar energy system has been approved for the purpose of compliance with any requirements or conditions. Twenty-four (24) hours advance notice by telephone to the owner/operator or designated contact person shall be deemed reasonable notice. The applicant/operator shall authorize and cooperate in such inspection. Furthermore, a utility-scale solar energy system shall be inspected annually by a New York State licensed professional engineer that has been approved by the Town or at any other time, upon a determination by the Town's Building Inspector that damage may have occurred, and a copy of the inspection report shall be submitted to the Town Building Inspector. Any fee or expense associated with this inspection shall be borne entirely by the permit holder.
3. General complaint process. During construction, the Town Building Inspector can issue a stop order at any time for any violations of a special use or building permit. After construction is

complete, the permit holder of a utility-scale solar energy system shall establish a contact person, including name and phone number, for receipt of any complaint concerning any permit requirements.

4. Continued Operation. A solar energy system shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all approval requirements and conditions. Further, the Building Inspector shall also have the right to request documentation from the owner for a solar energy system regarding the system's usage at any time.
5. Removal. All solar energy systems shall be dismantled and removed by the applicant/owner operator immediately from a lot when the special permit or approval has been revoked by the Town Board or the solar energy system has been deemed to be non-operating or abandoned by the Building Inspector for a period of more than three hundred and sixty-five (365) days at the cost of the owner. If the owner/operator or applicant does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner shall be given an opportunity to be heard and present evidence, dismantle and remove said facility and place the cost of removal as a tax lien on said parcel. Such action shall be in addition to and not in lieu of any other enforcement remedies the Town may have.
6. Determination of Abandonment or Non-operation. A determination of the abandonment or non-operation of a solar energy system shall be made by the Town Building Inspector, who shall provide the Owner/operator or applicant with written notice by personal service or certified mail at the address shown in the records of the Town or the application. Any appeal by the owner of the Building Inspector's determination of abandonment or inoperability shall be filed with the Town of Shelby Zoning Board of Appeals within thirty days of the Building Inspector causing personal service or mailing certified mail of his written determination and the Board shall hold a hearing on same. The filing of an appeal does not stay the following time frame unless the Zoning Board of Appeals or a court of competent jurisdiction grants a stay or reverses said determination. At the earlier of the three hundred and sixty-six (366) days from the date of determination of abandonment or inoperability without reactivation approved or upon completion of dismantling and removal, any approvals for the solar energy system shall automatically expire.
7. Application and annual fees.
 - a. Utility-scale solar energy system. An applicant shall pay an initial application fee of Two Thousand Five (\$2500) Dollars, or such other amount as the Town Board may, from time to time, determine by resolution, upon filing its special permit and site plan application to cover the cost of processing and reviewing the application. If approved, the Owner shall pay an annual fee of One Thousand (\$1000) Dollars, or such other amount as the Town Board may, from time to time, determine by resolution, to cover the cost of processing and reviewing the annual inspection report and for administration, inspections and enforcement.
 - b. Said fees are in addition to fees for Building Permits. Fees are as follows:
 - i. 0.025 per square foot of the project area, or such other amount as the Town Board may, from time to time, determine by resolution.

8. Prior to the issuance of a building permit, the applicant shall document that all applicable federal, state, county, and local permits have been obtained.
 9. Special permits for a utility-scale solar energy system granted under this Section shall be issued only following a public hearing held as required for special permits under the New York State Town Law.
 10. The Town Board may:
 - a. For utility-scale solar energy systems, grant a Special Permit, deny a Special Permit, or grant a Special Permit with written stated conditions. Upon issuance of a Special Permit, the applicant shall obtain a building permit for the utility-scale solar energy system.
 11. Any changes or alterations post construction to a utility-scale solar energy system shall be allowed only by amendment to the Special Permit and/or site plan (if required) subject to all requirements of this Code.
 12. Special permits for utility-scale solar energy systems shall be assignable or transferrable so long as they are in full compliance with this Section and all the conditions, and the Building Inspector is notified in writing at least fifteen (15) days prior thereto.
 13. In addition to the requirements of this Section, the special permit application shall be subject to any other site plan approval requirements set forth in the Zoning Law.
- I. Violation/Revocation.
1. Any violation of this Section or of the terms of a Special Use Permit constitutes a violation pursuant to the Zoning Code.
 2. The Town may enforce this Section by obtaining an injunction, temporary restraining order, temporary injunction or any other remedy available in law or equity.
 3. If the applicant violates any of the conditions of its special permit, site plan approval or violates any other local, state or federal laws, rules or regulations, this shall be grounds for revocation of the special permit or site plan approval. Revocation may occur after the applicant owner/operator is notified in writing of the violations and the Town Board holds a hearing on same.

Section 4. Solar Exemption Opt-Out

- A. The Purpose of this Section is to opt-out of the real property tax exemption for solar and wind projects pursuant to § 487 of the Real Property Tax Law (“RPTL”) of the State of New York.

B. Opt-Out. The Town hereby provides that no exemption under RPTL § 487 shall be applicable with its jurisdiction with respect to any solar or wind energy system or farm waste energy system which begins construction subsequent to the effective date of this local law.

Section 5. Severability.

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

Section 6. Effective Date

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

Local Law Filing

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

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

County City Town Village
(Select one.)

of Shelby

Local Law No. 1 of the year 2021

A local law to Amend the Town Law Regulating Solar Energy Systems
(Insert Title)

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

County City Town Village
(Select one.)

of Shelby as follows:

See attached.

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

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2021 of the (County)(City)(Town)(Village) of Shelby was duly passed by the Town Board on February 9, 2021, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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

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

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.~~
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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

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

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

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

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

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

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

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

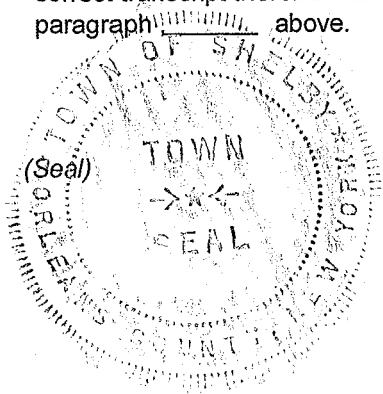
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

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

Darlene G. Rich MCA, LLC

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

Date: 02-11-2021



Town of Shelby
Local Law No. 1 of the Year 2021
A Local Law to Amend the Town Law Regulating Solar Energy Systems

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

Section 1. Authority

This Local Law is enacted pursuant to the provisions of the New York Town Law and the New York Municipal Home Rule Law.

Section 2. Purpose

The purpose of this local law (the "Local Law") is to amend certain provisions within the Town of Shelby's (the "Town") existing law regulating solar energy systems (originally enacted by Local Law No. 2 of 2016, which was later repealed and superseded by Local Law No. 1 of 2019) under Section 787 of the Zoning Local Law of the Town of Shelby, Orleans County, New York (the "Town Zoning Law"). These amendments are intended to clarify certain requirements for solar energy systems in the Town.

Section 3. Amendments to Section 787 of the Town Zoning Law

Section 787(A) of the Town Zoning Law shall be amended to add the following paragraph:

5. In light of these considerations, the provisions contained in this Section 787 are intended to regulate solar energy systems to protect the environment, public health and safety, and to promote the general welfare of the Town and its citizens, as well as to further Town planning and zoning goals.

Section 787(D) of the Town Zoning Law shall be amended to add the following paragraph:

6. Any applicant or entity proposing to install and/or operate a utility-scale solar energy system in the Town must enter into a host community agreement with the Town to compensate the Town for any expenses and impacts on the community associated with that solar energy system, and to provide other benefits for the community as may be negotiated between the Town and the applicant. Nothing in this law shall prevent the Town from entering into such additional agreements with the applicant as may be necessary to protect the Town's and its citizens' interests (e.g., separate road use and maintenance agreements, or decommissioning agreements). In addition, except where such funding is provided for by other New York State laws or regulations, any applicant for approval of a utility-scale solar energy system must also enter into an escrow agreement with the Town to pay the Town's technical, engineering, and legal costs and fees associated with the Town's review of the project application, including the review required by SEQRA

and the Town's review and negotiation of agreements for community benefits, payments in lieu of taxes, or other agreements associated with the proposed system.

Section 787(E)(3) of the Town Zoning Law shall be amended to read as follows:

3. Small ground mounted solar energy systems shall be subject to the following requirements:
 - a. The location of said solar energy system shall be placed no closer in accordance with setback requirements for an accessory structure of the use district in which it is located; and
 - b. The location of said solar energy system shall be only located in the side or rear yard;
 - c. The total surface area of said solar energy system on a lot shall not exceed the allowed accessory structures where permitted in the District.

Section 787(E) of the Town Zoning Law shall be amended to add the following paragraphs:

9. Decommissioning and Site Restoration. Any applicant or entity proposing to install and/or operate a utility-scale solar energy system shall submit a decommissioning plan to the Town, which shall include: (i) the anticipated life of the solar energy system; (ii) the estimated decommissioning costs in current dollars; (iii) how said estimate was determined; (iv) the method of ensuring that funds will be available for decommissioning and site restoration; (v) the method, such as by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and (vi) the manner in which the solar energy system will be decommissioned and the site restored, which shall include removal of all structures, panels, equipment, transmission lines, wiring, and debris from the surface and to a depth of three 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. The plan shall include a copy of the decommissioning bond or other financial mechanism or instrument providing the financial assurance required by this Section. The decommissioning plan shall be reduced to a decommissioning agreement between the Town and the system applicant or operator.
10. Financial Assurance for Decommissioning and Site Restoration. For the life of the utility-scale solar energy system, the applicant, or its successors or assigns, shall continuously maintain a bond or other appropriate form of financial security that is acceptable to the Town and payable to the Town in an amount—unless such amount is otherwise established or required by New York State laws or regulations—at least equal to 125% of the estimated costs of removing all components of the utility-scale solar energy

system (including any appurtenant equipment or facilities) and restoration of the system site(s) in accordance with the decommissioning plan. All expenses or costs of establishing or maintaining financial assurance shall be borne solely by the applicant, or its successors or assigns.

Section 787(G)(8) of the Town Zoning Law shall be amended to read as follows:

8. The design, construction, operation, and maintenance of a utility-scale solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads and public parks in excess of that which already exists. The applicant for a utility-scale solar energy system shall provide adequate considerations for its use of local roads during the construction, operation, and maintenance activities for the system, including any road repairs, maintenance, or restoration that may be required due to heavy equipment or increased frequency of use associated with construction or operation of the system.

Section 787(G)(14) of the Town Zoning Law shall be amended to read as follows:

14. The utility-scale solar energy system, as designed and constructed, shall provide adequate visual screening and site security measures. A berm and/or screening may be required along property lines abutting a residential lot.

Section 787(G)(17) of the Town Zoning Law shall be amended to read as follows:

17. A bond or other appropriate form of security acceptable to the Town Board shall be provided to cover the cost of the removal and site restoration in accordance with Section 787. Said bond or security shall be established and provided to the Town prior to construction. Said bond or security shall not be revocable without the Town's written consent and shall extend for a period of not less than the actual system removal and restoration without limit as duration; and shall transfer to cover any subsequent owner or operator of the system.

Section 787(H)(5) of the Town Zoning Law shall be amended to read as follows:

5. All solar energy systems shall be dismantled and removed by the applicant/owner immediately from a lot when the special permit or approval has been revoked by the Town Board or the solar energy system has been deemed to be non-operating or abandoned by the Building Inspector for a period of more than three hundred and sixty-five (365) days, at the cost of the applicant or owner/operator. If the owner/operator or applicant does not dismantle and remove said solar energy system as required, the Town Board may, after a hearing at which the owner/operator or applicant shall be given an opportunity to be heard and present evidence, dismantle and

remove said facility and draw on the bond or other form of financial assurance provided to the Town for the solar energy system in accordance with this Section, or otherwise to place the cost of removal as a tax lien on said parcel. Such action shall be in addition to and not in lieu of any other enforcement remedies the Town may have.

Section 4. Severability.

If any section, subsection, phrase, sentence, or other portion of this Local Law or Section 787 of the Town Zoning Law is for any reason held invalid, void, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 5. Effective Date

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

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

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

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

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
SEP 24 2003

County _____
City of SHELBY
Town _____
Village _____

MISCELLANEOUS
& STATE RECORDS

Local Law No. 4 of the year 2003.

A local law Zoning Local Law of the Town of Shelby, Orleans County, New York
(Insert Title)

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County _____
City of SHELBY as follows:
Town _____
Village _____

ZONING REGULATIONS

Town of Shelby

ADOPTED: September 9, 2003

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ARTICLE I: ENACTMENT AND INTENT

SECTION 101 TITLE

The title of this code is the "Zoning Local Law of the Town of Shelby, Orleans County, New York", and shall include this text, and zoning map. All existing Zoning Ordinances and Local Laws of the Town of Shelby, Orleans County, New York, are hereby repealed upon the effective date of this Local Law.

SECTION 102 PURPOSE

This Zoning Local Law is adopted pursuant to the Town Law of the State of New York, to promote and protect the public health, safety and general welfare and in furtherance of the following related and more specific purposes:

- A. To protect the open, rural and natural character of the land.
- B. To preserve the town's natural resources and habitats.
- C. To guide and regulate the orderly growth, development and redevelopment of the Town of Shelby in accordance with a well-considered plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.
- D. To encourage the use of alternative energy systems and protect solar and wind access.

SECTION 103 APPLICATION OF REGULATIONS

The regulations set by this Local Law shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
 - 1. Exceeds the height limitation for any structure within a specified district;
 - 2. Accommodates or houses a greater number of dwelling units than is permitted within a specified zoning district;
 - 3. Occupies a greater percentage of lot area than is permitted by the zoning schedule; or

4. Has narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Local Law or the requirements of the Codes of New York State.
- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in Sections 601 and 602.
 - D. No yard or lot existing at the time of enactment of this Local Law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Local Law shall meet or exceed the minimum requirements established herein.

SECTION 104 CONFLICTS WITH OTHER LAWS

Whenever the requirements of this Local Law are in conflict with the requirements of any other lawfully adopted rules, regulations, codes, s or local laws, the most restrictive of such rules, regulations, codes, or s or those imposing the higher standards shall govern.

SECTION 105 VALIDITY AND SEVERABILITY

Should any section of or provision of this Local Law be decided by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the Local Law as a whole, or any part thereof, other than the part so decided to be unconstitutional or otherwise invalid.

SECTION 106 FEES

Permit fees shall be collected and paid according to the fee structure in effect at the time of application. A fee schedule is posted at the Town Clerk's Office and Zoning Officer's Office.

SECTION 107 VIOLATIONS AND PENALTIES

Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any provision of this Local Law shall be guilty of an offense, and upon conviction thereof, shall be subject to a fine of not more than \$250.00 or imprisonment for a period not more than six (6) months or both. Each week a violation is continued shall be deemed a separate offense.

SECTION 108 ACTIONS

- A. If the Zoning Enforcement Officer discovers a project commencing or operating without the required permits, he shall undertake enforcement actions as authorized by this Local Law and other provisions of NYS Law.
- B. The Town may maintain an action for a temporary restraining order, temporary injunction, or injunction to restrain, correct, or abate any violation of this Local Law or any failure to comply with any of the provisions of this Local Law.

SECTION 109 ENFORCEMENT OF ZONING LOCAL LAW

Any building or structure erected, or any use conducted without a zoning permit or certificate of compliance, where required, or not in conformity with the provisions of this Local Law, may be removed, closed or halted at once by the Zoning Enforcement Officer with the issuance of a stop order, with assistance, if deemed necessary, of any appropriate Town office or employee.

SECTION 110 CONSISTENCY WITH COMPREHENSIVE PLAN

The provisions and regulations of this zoning Local Law and interpretations thereof, shall be made in accordance with the objectives of the Town's Comprehensive Plan.

SECTION 111 EFFECTIVE DATE

This Local Law shall take effect 30 days after the adoption and filing with the Department of State as provided by the NYS Town Law and Municipal Home Rule Law.

SECTION 112 AMENDMENTS TO ZONING

A. Procedure

The Town Board may from time to time on its own motion, on petition or on recommendation of the Planning Board, and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Local Law, after public notice and hearing.

B. Filing of Petition

A petition to amend, change or supplement the text of this Local Law or any zoning district as designated on the Zoning Map established herein shall be filed with the Town Clerk and accompanied by the appropriate fees. The Clerk shall transmit the documentation to the Town Board. A petition for a change to the Zoning Map shall contain a map which clearly describes the affected property and its boundaries and shall indicate the existing zoning district and the requested zoning change. In addition, every petition for a change to the Official Zoning Map shall contain an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in State Environmental Quality Review (SEQR) regulations.

C. Referral to Planning Board

Every such proposed amendment or change, whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing and within 45 days after the date of referral by the Town Board. If the Planning Board shall fail to file such a report, it shall be conclusively presumed that the Planning Board has approved the proposed amendment, supplement or change.

D. Public Hearing; Notice; Referrals; Recording of Actions

The Town Board by resolution adopted shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given as provided by Town Law or Municipal Home Rule Law.

Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices, referrals to the County Planning Board, and proper recording of zoning actions taken by the Town Board shall apply to all amendments to this Local Law.

E. Notification of Property Owners

For zoning map amendments initiated by petition, all property owners within a distance of 500 ft. of any proposed change or amendment shall be notified by mail.

The applicant shall place one (1) sign on the property for which a rezoning is requested. Said sign shall be provided by the Zoning Officer. The sign shall be placed in a location which is easily read from a public street. The sign shall specify the date, time and place of the public hearing and a telephone number to call for more specific information. Such sign shall be placed on the site not less than ten (10) days prior to the public hearing and shall be brought to the hearing by the applicant or his designated representative.

F. Disposition Final; Rehearing on Petition

The disposition of a petition for amendment by the Town Board shall be final and disapproval or denial of the proposed amendment shall void the petition. No new petition for an amendment which has been previously denied by the Town Board shall be considered by it, except for a vote to table or to receive and file, and no public hearing shall be held on such amendment within a period of one (1) year from the date of such previous denial unless the Planning Board shall submit a recommendation, with reasons stated therefore, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one (1).

ARTICLE II: DEFINITIONS

SECTION 200 WORD USAGE

For the purpose of this Local Law, certain words and terms used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, partnership, trust, company or corporation as well as an individual.
- B. Words used in the present tense include the future tense.
- C. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- D. The word "building" includes the word "structure".
- E. The words "shall" and "must" are mandatory and not discretionary; "may" is permissive.
- F. The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied".
- G. The word "lot" includes the words "plot", "parcel", "tract" or "site".
- H. The word "premises" includes a lot and all buildings or structures thereon.
- I. To "erect", to "construct" and to "build" a building or structure each have the same meaning and also include to "excavate" for a building and to "relocate" a building by moving it from one location to another.

SECTION 210 DEFINITIONS

ACCESSORY BUILDING OR STRUCTURE: A detached building or structure which: (1) is customarily incidental and subordinate to, and serves a principal building; (2) is subordinate in area, extent or purpose to the principal building served; (3) contributes to the comfort, convenience or necessity of occupants of the principal building use; and, (4) is located on the same parcel as the principal building. This definition shall include private garages. This definition shall exclude devices previously used for highway use, such as truck trailers.

ACCESSORY USE: A use incidental and subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

AGRICULTURAL PRODUCT PROCESSING FACILITY: A facility in which agricultural products, which are not produced on the premises, are altered for the purpose of canning, freezing, or other packaging, or are converted or incorporated into other products.

AGRICULTURAL PRODUCT DISTRIBUTION CENTER: A facility in which agricultural products, which are not produced on the premises, are graded, sorted, and/or packaged for the purpose of distribution by truck, rail, or other means.

AGRICULTURE/ (FARMING): The use of land for agricultural production purposes including, tilling of the soil, dairying, pasture, animal and poultry husbandry, apiculture, arboriculture, horticulture, floriculture, viticulture, and accessory uses for packing, storing, processing and retail sales of products, provided that the operation of any such accessory uses shall be secondary to that of the principal agricultural production activities.

AIRPORT: Any area of land designed for the operation of general aviation aircraft, including hangars for storage and servicing, taxiways, landing strips and accessory uses.

AIRSTRIP, PRIVATE: An airport, as defined above, used solely for the benefit of the landowner and for emergency landing when necessary. For the purpose of this Local Law, Private Airports shall meet the same regulations as "Airport."

ALTERATION: As applied to a building or structure; (1) the change or rearrangement in the supporting members of a building or structure such as bearing walls, columns, beams or girders or in the exit facilities; (2) an enlargement of a building or structure, whether by extending on a side or by increasing in height; (3) the moving from one location or position to another; or (4) any alteration whereby a structure is adapted to another or different use, including any separation into rooms or spaces by the installation of non-bearing partitions; or (5) the installation, replacement or alteration of mechanical systems.

ALTERNATIVE ENERGY SYSTEMS: Structures, equipment, devices or construction techniques used for the production of heat, light, cooling, electricity or other forms of energy on site and may be attached to or separate from the principal structure. Current examples include windmills, solar collectors and solar greenhouses, heat pumps, or other related devices. For the purposes of this Local Law, this definition shall apply to individual residences and businesses. Commercial generating plants, the prime function of which is selling energy, are excluded.

AMUSEMENT CENTER: Any indoor place or enclosure in which is maintained or operated for the amusement, patronage, or recreation of the public three (3) or more coin-controlled amusement devices, including the type commonly known as bagatelle, baseball, football, pinball, and video games.

ANIMAL HOSPITAL OR VETERINARY CLINIC -- The premises or buildings used for the diagnosis, treatment or other care of the ailments of domesticated, household or farm animals, which may include related facilities, such as laboratories, offices and temporary quarters for such animals.

ANIMAL HUSBANDRY - The raising or keeping of one (1) or more cows, cattle, horses, mules, hogs, sheep, goats, donkeys, oxen, or other similar animals, or the raising or keeping of more than four (4) ducks, chickens, rabbits, geese, quail, chinchillas, mink, or any similar small animals, but not including dogs and cats. Such uses include the pasturing, feeding, and sheltering of such animals.

ANIMAL UNIT - The equivalent of 1000 pounds of farm animal.

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).

APARTMENT: A dwelling unit within a two-family or multi-family dwelling that is intended to be leased or rented. This term shall not be deemed to include a motel, hotel, boarding house or travel trailer.

AUTOMOBILE WRECKING: The dismantling or disassembling of used motor vehicles, mobile homes or manufactured housing; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

BAIT AND TACKLE SHOP: Store for retail sales of live bait, fishing equipment and small fishing accessories.

BED AND BREAKFAST: A single-family dwelling where overnight lodging, with or without the service of meals, is offered to transient guests for compensation. Such use shall be clearly incidental and secondary to the principal use of the dwelling. This term includes hostels and Tourist Homes establishments but does not include hotels, tourist courts, motor lodges, tourist cabins or similar terms.

BUFFER AREA: A continuous strip of land area covered with grass, vegetation, trees, fencing, embankments or berms, designed to provide a physical screen to limit visibility between uses and reduce the escape and/or intrusion of litter, fumes, dust, noise, or other noxious or objectionable elements.

BUILDING: Any structure that is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals, or property.

BUILDING CODE: The Codes of New York State, which govern building construction, renovation and property maintenance.

BUILDING COVERAGE, PERCENT OF: The percent of building coverage of any lot shall be equal to one hundred (100) times the ratio of the gross horizontal area of all principal and accessory buildings that have roofs on them (including covered breezeways, covered porches, covered cantilevered structures, etc.) measured from the exterior faces of the exterior walls but shall not include any structure (such as a patio or deck) that does not have a roof, divided by the horizontal area of the lot.

BUILDING HEIGHT - The vertical distance measured from the mean level of the ground surrounding the structure to the highest point of the structure, but not including chimneys, spires, tanks, and similar projections

BUILDING LINE: A line formed by the intersection of a horizontal plane at an average grade level and a vertical plane that coincides with the exterior surface of the building or a projected roof or porch. The vertical plane will coincide with the most projected surface, excluding steps and overhanging eaves less than two (2) feet in width. All yard and setback requirements are measured to the building lines.

BUILDING PERMIT: A document issued by the Code Enforcement Officer authorizing the construction and occupancy of structures in accordance with the Codes of New York State.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated. In any residential district any dwelling shall be deemed to be a principal building on the zone lot on which the same is located.

BUSINESS: Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type. For the purpose of this Local Law, "business" shall have the same meaning as commercial, and reference to commercial districts or zones shall be interpreted as referring to business districts.

BUSINESS, DRIVE-IN: A traffic-generating facility where a product is sold or a service performed for customers while they are in or near their motor vehicles in off-street parking or service areas. This term includes convenience store, drive-in banking, restaurant, fast food service, drive-in photo processing, drive-in outdoor theatres, autowash or similar use. This term shall not include retail gasoline services.

BUSINESS, GENERAL: Any establishment engaged in the sale of goods or services not otherwise identified in this section.

BUSINESS, NEIGHBORHOOD: Small commercial establishments, containing less than 10,000 square feet in gross floor area, catering primarily to nearby residential areas or tourists and providing convenience and/or specialty goods and services including but not limited to grocery stores, gift shops, drug stores, beauty salons, barber shops, carryout dry cleaning and laundry pickup stations.

BUSINESS, RETAIL: A commercial activity designed for and primarily characterized by the on-premises sale of goods directly to the ultimate individual and household consumer, but also including servicing, preparation, storage and wholesale business transactions related to such goods and customarily associated therewith but clearly incidental thereto. This term shall not include commercial activity which may also be similarly characterized, but which is separately identified as a use permitted within a zoning district.

BUSINESS, SERVICE: A business primarily involved in the provision of services, rather than goods, to other businesses or to the general public. This term shall not include any service activity which may also be similarly characterized, but which is separately identified as a use permitted within a zoning district.

CAMP: See Dwelling, Seasonal.

CAMPING UNITS: See Recreational Vehicle

CAMPGROUND: A parcel of land used or intended to be used, let or rented for transient, vacation and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor

homes and the motor vehicles propelling or carrying the same, but excluding mobile homes or manufactured housing designed for year-round occupancy or as a place of residence.

CAR WASH: A structure or building designed for the washing, waxing, or similar treatment of automotive vehicles as its principal function. A GAS STATION having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the GAS STATION.

CARPOR: A roofed structure without enclosing walls, used for the storage of one or more vehicles.

CEMETERY OR BURIAL GROUND: A tract of land for the disposal or burial of deceased human beings or remains in a grave, mausoleum, vault, columbarium or other receptacle. The provisions of this Local Law shall apply to all cemeteries and burial grounds including those owned by a religious corporation, municipal corporation, or a cemetery corporation owning a cemetery operated, supervised or controlled by or in connection with a religious corporation.

CERTIFICATE OF COMPLIANCE: A certificate issued by the Zoning Enforcement Officer upon completion of the change in use of an existing building or upon the completion of a project requiring site plan approval. Said certificate shall acknowledge compliance with all requirements of the Town's Code, Ordinances, Local Laws, Variances and Special Permits in existence as of the date of the issuance of the Certificate of Compliance.

CERTIFICATE OF OCCUPANCY: A certificate issued by the Code Enforcement Officer upon completion of construction or alteration of a building. Said Certificate shall acknowledge compliance with all of the requirements of the Codes of New York State.

CHARTER BOAT SERVICES; A waterfront facility having docks and moorings for small boats, where engagement of services include a boat, crew, and captain for a fee, or other remuneration.

CHURCH: See PLACE OF WORSHIP

CLEAR SIGHT TRIANGLE: An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street right-of-way lines.

CLUB: Any organization catering to members and their guests, or a building or premises used for recreational, general, social, or athletic purposes not open to the general public. Clubs shall not be conducted primarily for gain, and vending stands, merchandising, or commercial activities shall not be conducted except as required for the membership and purposes of such club. For the purpose of this Local Law, this term shall include: religious organizations; lodges; fraternal organizations; mutual benefit societies; snowmobiling, archery or hunting clubs; and other similar organizations.

CLUSTER DEVELOPMENT: A development of residential lots, some of which may contain less area than the minimum lot area required for the zone within which such development occurs, while maintaining the density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

COMMERCIAL USE - Includes the purchase, sale or any other transaction involving the handling, servicing or disposition of any article, substance or commodity, tangible or intangible, and includes retail or wholesale trade, services, offices, recreational and amusement enterprises and any operation where the above-described activities are conducted in return for remuneration of any type.

COMMERCIAL VEHICLE -- Any vehicle in excess of twenty (20) feet in length carrying a valid commercial New York State registration license plate, which is used for the transportation of persons, animals or goods, primarily for profit, or carries a permanently affixed business identification sign exceeding one (1) square foot in area; or any vehicle used for earthmoving or construction purposes.

COMMERCIAL VEHICLE: Every type of motor vehicle driven or used for commercial purposes on the highways, such as the transportation of goods, wares and merchandise, motor coaches carrying passengers, and trailers and semi-trailers, including tractors when used in combination with trailers and semi-trailers.

COMMON AREA: Space reserved for use by any and all residents of a housing development including, but not limited to, halls, stairways and landings in apartment houses.

COMMUNICATION TOWER: See "TELECOMMUNICATIONS FACILITY".

CONFERENCE/ RESORT COMPLEX: Grounds or facilities used or designed for use by the public or for groups for meetings, conferences or recreational purposes. This definition shall not include membership clubs or public parks and playgrounds, as defined under "Public and Semi-Public Buildings and Grounds."

CONVENIENCE STORE - A retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages and household supplies to customers who purchase relatively few items. Such an establishment may include the sale of prepared foods, such as sandwiches, soups, ice cream, etc. for consumption on or off the premises and may include indoor seating for such purposes. A convenience store shall meet all of the requirements for a "gas station" if it includes the retail sale of gasoline or other vehicular fuels.

COUNTY PLANNING BOARD - The Planning Board of the County of Orleans.

CORNER LOTS: See LOT, CORNER.

COVERAGE - That percentage of the plot or land area covered by the building area.

CURB CUT - The opening along a street at which point vehicles may enter or leave the roadway.

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

DAY CARE HOME, FAMILY - A residence in which child day care is provided on a regular basis for more than three (3) hours per day per child for three to six children for compensation or otherwise.

DAY CARE HOME, GROUP FAMILY - A residence in which child day care is provided on a regular basis for more than three (3) hours per day per child for seven (7) to twelve (12) children for compensation or otherwise.

DAY CARE CENTER, CHILD - A program or facility which is not a residence in which child day care is provided on a regular basis to more than six (6) children for more than three (3) hours per day per child for compensation or otherwise.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION - The New York State Department of Environmental Conservation (NYS DEC)

DEPARTMENT OF HEALTH - The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

DEVELOPMENT: Any change made to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

DISTRIBUTION CENTER -- A truck terminal facility at which any storage of goods or chattels is minor, transitory and merely incidental to the purpose of facilitating the transportation of goods or chattels.

DRIVE-IN SERVICE: See **BUSINESS, DRIVE-IN**

DRIVEWAY: A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a driveway.

DWELLING: Any building or portion thereof designed or used exclusively as a residence or sleeping place for one (1) or more persons.

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

TWO-FAMILY: A detached or semi-detached building where not more than two (2) individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

MULTI-FAMILY: A building or portion thereof used or designed as a residence for three (3) or more apartment or dwelling units.

SEASONAL DWELLING: A dwelling unit intended for occupancy only during certain seasons of the year, principally for recreational use by the owner, including beach cottages, hunting cabins, vacation cottages, summer cottages, and vacation lodges. This definition does not include recreational vehicles, travel trailers, or other vehicles.

DWELLING UNIT: One room or rooms connected together for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities, designed for occupancy by one family.

EASEMENT: A specified (limited) use of private land for a public or quasi-public purpose.

EFFICIENCY APARTMENT - A multiple dwelling unit in which the sleeping area and living room are one.

ESSENTIAL SERVICES AND PUBLIC UTILITIES: Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities, but shall not include telecommunications facilities as defined herein, and shall not include landfills, waste transfer stations or other facilities with the primary purpose of handling or disposing of household or industrial waste.

EXCAVATION (Quarry, Sand Pit, Gravel Pit, Topsoil Stripping): A lot or land or part thereof used for the purposes of extracting stone, sand, or gravel for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

FAMILY: One or more persons, usually but not necessarily related by blood, marriage or adoption, living together as a single, not-for-profit housekeeping unit.

FAMILY DAY CARE HOME: See DAY CARE, HOME (FAMILY)

FARM: See AGRICULTURE

FARM ANIMAL: This term shall include horses, cows, goats, sheep, pigs, rabbits, fowls, llamas, and other similar animals.

FARM BUILDING: Any building used for the housing of agricultural equipment, produce, livestock or poultry or for the incidental or customary processing of farm products, and provided that such building is located on, operated in conjunction with, and necessary to the operating of the farm as defined herein.

FARMER: Any person who grosses an income of \$10,000 from agriculture and who files a Schedule F, IRS Farm Income Form, with their Federal Tax Return.

FARM LABOR CAMP

PRIVATE: Any structure or combination of structures, building or buildings in which people are housed on a farmer's own land who are employed in the individual farmer's personal farming operation, on that farmer's land or land that he has under his control by a valid and existing lease.

COMMERCIAL: Any structure or combination of structures designed or intended to be used for the housing of persons engaged in casual or per diem labor on a profit basis for farmers other than the owner of the camp.

FARM MARKET: A structure with more than 120 square feet of gross floor area intended for the display and sale of farm produce and other agricultural products or crafts.

FARM PRODUCE STAND OR SEASONAL ROADSIDE STAND: Retail outlet, consisting of non-permanent structures (movable and temporary), for the sale of agricultural products grown principally by the operator during the harvest season. (See also "Farm Market.")

FENCE: A barrier, as of wooden or metal posts, rails, wire mesh, etc. , used as a boundary, decorative enclosure, means of protection or confinement.

FENCING, FARM: Any barrier, fencing , screening or buffering that specifically meets the needs of agricultural land use.

FLAG LOT: A type of lot (commonly flag-shaped in configuration) in which street frontage is provided by a strip of land which is narrow in relation to the remainder of the lot and which extends from the main body of the lot to the street. A lot which does not physically front on or abut a street, but which has access to a street by means of an easement over other property, shall be deemed to be included in this definition. The portion of the lot that provides access to the interior portion of the lot shall not be less than twenty (20) feet in width, shall not be considered buildable and shall not be used in the calculation of the minimum lot area requirements for the zone district. The interior portion of the lot shall meet the minimum lot area requirements for the zone district.

FLAG LOT, ACCESS PORTION: The panhandle portion of a flag lot having at least twenty (20) feet in lot width and which provides an access corridor between a public road, street or highway right-of-way to the interior portion of a flag lot.

FLAG LOT, INTERIOR PORTION: That portion of a flag lot having sufficient lot area, width and depth to meet the minimum requirements of the zone district, and which excludes the access portion of the lot.

FLOOD HAZARD AREA: Areas subject to a 1% or greater chance of flooding in any given year as shown on the FEMA Flood Insurance Rate Map. Refer to Town of Shelby - Flood Hazard Ordinance.

FLOOR AREA, GROSS: The sum of the gross horizontal areas of the floor(s) of a building or buildings, measured from the inside faces of exterior walls or from the center line of walls separating two uses or dwelling units.

FLOOR AREA, HABITABLE: The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business, as defined in the Codes of New York.

FRONTAGE: All of the property abutting one side of a road, street, or thoroughfare, measured along the road, street or thoroughfare line.

FUEL OIL STORAGE -- Premises used for the storage of fuel oil, kerosene or other combustible fuel in tanks for the sale by motor vehicle or other means of conveyance to purchasers at some other location, and excluding gasoline storage tanks used at gasoline stations for retail sales or tanks used by individuals when fuel is not sold.

FUNERAL HOME -- A building or portion thereof, with or without an accessory dwelling unit, used principally for preparing cadavers for interment, including embalming, holding wakes or conducting funeral services. The term shall include a mortuary, but shall not include a crematorium.

GARAGE, PRIVATE: An accessory building which provides for the storage of motor vehicles or household items by the occupants on the lot upon which it is erected, with no provision for repairing or servicing such vehicles for profit. A garage cannot serve as the principal use on any lot.

GARAGE, PUBLIC: Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, recreational vehicles, boats or other tangible personal property.

GASOLINE STATION -- Any building, land area or other premises or portion thereof used or intended to be used primarily for the retail dispensing or sales of vehicular fuels and which may include, as an accessory use, the sale and installation of lubricants, tires, batteries and similar accessories. A convenience store shall meet all of the requirements of a "gasoline station" if it includes the retail sales of gasoline or other vehicular fuels.

GRAVEL OR SAND PIT - See "Extraction of stone and other mining operation."

GREEN SPACE -- Land areas covered only by grass, trees or other vegetation.

HARD SURFACE: Minimum 3 inches of asphalt, 4 inches of concrete or 6 inches of crushed stone.

HISTORIC DISTRICT OR LANDMARK Any area in the Town identified as a site of historical or cultural significance with certain rules and regulations governing both land and structures therein.

HOME BUSINESS - An accessory use, other than a "Home Occupation" as defined herein, that is conducted within a single family, occupied dwelling or an attached or detached accessory structure (including a barn) for gainful employment and involves the manufacture, provision or sale of goods and/or services principally on the premises.

HOME OCCUPATION -- Any occupation or profession conducted as an accessory use entirely within a dwelling or accessory building by the occupants of the dwelling, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. By definition, a home occupation involves no client or customer visits to the dwelling, is not evident by observation from the street or any of the adjoining properties, and meets all of the criteria specified in Section 695 of this Local Law. (See also "Home Business.")

HOSPITAL -- An institution providing health services and medical or surgical care, primarily for temporary inpatients, to persons suffering from illness, disease, injury, deformity or other abnormal physical or mental condition, and including as an integral part of the institution related facilities such as laboratories, outpatient facilities or training facilities.

HUNTING/ FISHING CLUB - A facility, whether open to the public or limited to members of a group, which offers such activities as game hunting, fishing, trap or skeet shooting, target shooting, target practice, game farms, and related uses such as assembly halls or sales of bait or equipment. The term includes rod & gun clubs and sportsmen's clubs.

INDUSTRY, HEAVY -- A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials or a use engaged in storage of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

INDUSTRY, LIGHT -- A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but exclusive of basic industrial processing and storage of flammable or toxic materials. "Light industry" is also exclusive of uses that require heavy, noisy or otherwise objectionable disturbances, such as vibration, dust and odors.

JUNK YARD: A lot, land or structure or part thereof used for the collection, storage, disassembly, packing, sorting, salvage, buying, selling or exchange of waste paper, rags, scrap, or discarded materials or machinery, or parts of any sort. More than two (2) abandoned, unregistered, disabled, dismantled, or partly dismantled vehicles, or pieces of equipment, allowed to remain unhoused on a premises for a period of more than thirty (30) days shall constitute a junkyard. Also, the unhoused storage, sale, or abandonment of waste paper, rags, scrap metal, discarded materials, or the collecting, dismantling, storage, salvaging or abandonment of machinery, appliances or vehicles not in operating condition shall constitute a junkyard. Automobile junkyards as defined in General Municipal Law, Section 136 shall be included within this definition.

KENNEL: Any premises, and/or structure in or on which four (4) or more dogs, or ten (10) or more cats or a comparable number of other domestic animals which may be considered to be household pets of at least four (4) months of age, are housed and maintained for commercial or non-commercial purposes for a continuous period of 24 hours or more.

LOADING SPACE, OFF-STREET: Space logically and conveniently located for public pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles.

LOT: A parcel or area of land, the dimensions and extent of which are determined by the latest official records or recordings.

CORNER LOT: A parcel of land at the junction of, and fronting on two or more intersecting streets, roads, or thoroughfares.

THROUGH LOT: An interior lot having frontage on two parallel or approximately parallel streets, roads, or thoroughfares.

LOT AREA: The square footage or acreage contained within the boundaries of a lot. Any portion of a lot included in a public road, street or highway right-of-way shall not be included in calculating lot area.

LOT DEPTH: The mean distance from the right of way line of the street to the rear lot line measured in the general direction of the side lines of the lot.

LOT FRONTAGE: The linear distance along a lot line which adjoins the road or highway which provides access to the lot.

LOT LINE: The property lines bounding the lot:

1. Lot Line, Front: The line separating the lot from a street right-of-way.
2. Lot Line, Rear: The lot line opposite and most distant from the front lot line.
3. Lot Line, Side: Any lot line other than a front or rear lot line.

LOT OF RECORD: A parcel of land properly recorded with the County Clerk and assigned a unique tax parcel identification number at the time of passage of this Local Law.

LOT WIDTH: The width of the lot between side lot lines at the front building line as prescribed by the front yard and setback regulations.

MANUFACTURED HOME: A factory-manufactured home, built on a permanent steel-framed chassis in accordance with federal Department of Housing and Urban Development (HUD) standards and designed to be transported to a site in one section, which is intended to be used as permanent living quarters by a single family unit when connected to the required plumbing, heating and electrical utilities. For the purpose of this Local Law, the removal of transport wheels and/or the anchoring of the home to a permanent foundation shall not remove it from this definition. A "Single-Wide Manufactured Home" is a manufactured home with a width at its narrowest dimension of less than 20 feet.

MANUFACTURED HOME PARK: Any site, lot, field, plot, parcel or tract of land on which two (2) or more manufactured homes are parked or located and are occupied or intended for occupancy on the premises, and for which either the said premises or manufactured home is offered to the public for a fee of any type, including cost sharing. This includes the rental of the premises and/or the manufactured homes.

MANURE STORAGE FACILITY - A facility constructed as an accessory use to an animal husbandry use, riding stable, or kennel, intended to collect, hold, process, store, treat, or distribute animal solid and liquid waste. Included within this definition are storage tanks, lagoons, seepage pits, drains, and collection systems intended to handle animal waste. Not included within this definition are systems designed and constructed to handle human waste.

MARINA: A lot, building, structure, pier, dock or portion thereof located with shoreline frontage and access to navigable water and used for the launching, mooring, rental, sale, fueling and/or repair of watercraft and including such boat storage, boat launch facilities, and such sales of bait, tackle and marine supplies as may be accessory to such marinas. The term "marina" shall include "yacht club," but shall exclude non-commercial facilities that are accessory to a single or two-family residence.

MEDICAL OFFICES/CLINICS -- A facility or institution, whether public or private, where medical or dental care is furnished to persons on an outpatient basis by one (1) or more doctors or dentists; a place for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of medical or surgical attention but who are not provided with board or room or kept overnight on the premises; a facility for human ailments operated by a group of physicians, dentists, chiropractors or other licensed practitioners for the treatment and examination of outpatients.

MINING: The use of an area of land to remove minerals, metals or other items of value from the ground for a profit, including gas and oil wells.

MODULAR HOME A factory-manufactured dwelling having no permanent support frame and designed to be transported to a site in one or more sections for erection, construction, or installation as a permanent structure. Modular Homes shall be affixed to a permanent site-built foundation and shall meet the requirements of the Codes of New York State. For the purposes of this Local Law, Modular Homes shall be regulated as a dwelling.

MOTEL: A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed primarily for transient automobile travelers and providing accessory off-street parking facilities. A restaurant, tearoom or similar establishment located on the same premises as a motel shall be considered as an accessory use. The term motel includes facilities designated as tourist courts, motor lodges and similar uses.

MOTOR VEHICLE: Any vehicle designed to be propelled or drawn by power other than muscle power, except electrically driven wheelchairs being operated or driven by an invalid. This term shall include automobiles, trucks, buses, motorcycles, tractor-trailers, boats, motorhomes, snowmobiles, all-terrain vehicles and garden and lawn tractors.

MOTOR VEHICLE REPAIR SHOP: A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles for compensation.

MOTOR VEHICLE SALES -- Any area of land, including structures thereon, the principal use of which is the display or sale of new and/or used automobiles, motorcycles, trucks, cargo trailers, boats, recreational vehicles or other vehicles, and which may or may not include the repair of vehicles as an accessory use. Enclosed showrooms and open display areas are included in this definition. The sale of motor fuels is not included in this definition.

MOTOR VEHICLE SALES AREA - An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition where no repair work is done.

NON-CONFORMING BUILDING, STRUCTURE OR USE: A building, structure, or use of land which was lawfully existing prior to the adoption or amendment of this Local Law, but which fails to conform to the regulations of the zoning district in which it is now located by reason of such adoption or amendment.

NON-CONFORMING LOT: A lot of record existing at the date of the enactment of this Local Law which does not have the minimum width, depth or area for the district in which it is located.

NURSING OR CONVALESCENT HOME -- A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital.

OFFICE BUILDING: A building in which office use comprises more than fifty (50) percent of the total floor area. This does not include home occupations, where offices are a secondary or incidental use.

OPEN STORAGE: An unenclosed area used for temporary or seasonal storage of vehicles, materials, building supplies, stock, or supplies for later use in conjunction with a permitted principal use, accessory use, or special permitted use.

PARK, PRIVATE, NON-COMMERCIAL: Outdoor recreation facilities, operated by a non-profit organization and open only to bona fide members of such non-profit organization.

PARK OR RECREATION AREAS, PUBLIC: Outdoor recreation facilities or other entertainment facilities operated as a non-profit enterprise by the Town of Shelby, any other governmental entity or any non-profit organization and open to the general public.

PERCOLATION RATE - The rate in minutes per inch as determined by following the test procedure as set forth in the most recent edition of the New York State Waste Treatment Handbook as published by the New York State Department of Health. Said percolation rates must be obtained from the area of the site on which a septic system leach bed is intended to be constructed, or would normally be constructed. For the determination of minimum lot sizes in accordance with this Local Law, such percolation tests must be taken in native soil.

PARKING SPACE: Space available for the parking of one motor vehicle and having an area of not less than 200 square feet (10 by 20 feet), exclusive of passageways and driveways providing access thereto.

PARKING, OFF-STREET: An off-street area with an appropriate means of vehicular access to a street, intended for the temporary storage of vehicles.

PERMITTED USE (or USE OF RIGHT): A land use listed in the Zoning District regulations of this Local Law as permitted.

PINBALL AND VIDEO GAME ARCADE: See "Amusement Center."

PLACE OF WORSHIP - Any church, synagogue, temple mosque or similar structure used for worship or religious instruction including social and administrative rooms accessory thereto.

PLANNING BOARD - The Planning Board of the Town of Shelby.

POND, FARM: Any artificially constructed body of water whose use is to enhance the agricultural process, or for protection, conservation water supply, or flooding or drainage control.

PRINTING/PUBLISHING ESTABLISHMENT -- A business for the printing of books, magazines or other publications, excluding retail sales of such products on the premises.

PRINCIPAL BUILDING: A building in which is conducted the main or principal use of the lot on which said building is located.

PRINCIPAL USE: The main or primary purpose for which a building, structure or lot is to be used.

PROFESSIONAL OFFICES: The office or place of business where professional services are offered and does not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to, medical doctors, dentists, attorneys, architects, engineers, planners, accountants, real estate brokers, insurance brokers, psychologists and chiropractors.

PUBLIC AND SEMI-PUBLIC USES: This definition is intended to include, but not be limited to, any one (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

1. Cemeteries and associated uses.
2. Churches, places of worship, parish houses and convents.
3. Public or semi-public parks, playgrounds and recreational areas when authorized or operated by a governmental authority, school, or religious institution.
4. Nursery schools, elementary schools, high schools, colleges, or universities.
5. Public libraries and museums.
6. Not-for-profit fire, ambulance and public safety buildings.
7. Administrative office buildings and related facilities operated by public agencies.
8. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes for adults, or homes for the aged as the same are defined under the Public Health Law or the Social Services Law of the State of New York, provided that they are duly licensed by the State of New York.
9. Not-for-profit membership corporation or club established for cultural, social, or recreational purposes.
10. Day care centers approved by the New York State Department of Social Services.

RECREATION, COMMERCIAL INDOOR -- A building, structure or portion thereof used principally for indoor recreation, sports or leisure activity, conducted as a commercial enterprise or otherwise as a principal use. The term includes, but is not limited to, billiard parlors, bowling halls, live or motion-picture theaters, amusement or video game centers, indoor sports facilities, gymnasiums, physical fitness centers, martial arts schools and dance

schools. The term does not include adult entertainment establishments, special events facilities or indoor recreation as a community facility or as an accessory use for an institutional use, membership club or nonprofit organization.

RECREATION FACILITY, OUTDOOR -- Land developed by a private sponsor with facilities for passive recreation, e.g., trails and picnic areas, and/or with facilities for active outdoor individual or organized recreation, e.g., ball fields, tennis courts, swimming pools, ski trails, and ice-skating areas. This definition includes golf courses, hunting and/or fishing clubs, and open air theaters or drive-in theaters. This definition does not include arenas, stadia or other facilities for the accommodation of more than 200 spectators, campgrounds, or racetracks or other facilities featuring activities involving motorized vehicles.

RECREATIONAL VEHICLE: A vehicle type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic types are:

A. Travel Trailer

A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and of a body width of no more than eight feet and six inches (8'6"), excluding awnings, and a body length of no more than forty (40) feet when factory equipped for the road.

B. Tent Camper

A portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.

C. Truck Camper

A portable unit, designed to be loaded onto, or affixed to, the bed or chassis of a truck. Truck campers are of two basic types:

1. Slide-in camper - A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.
2. Chassis-mount camper - A portable unit designed to be affixed to a truck chassis.

D. Motorhome

A vehicular unit built on a self-propelled motor vehicle chassis.

RESIDENTIAL CONVERSION: The conversion of the use of a building from non-residential to residential use or the structural alteration of an existing residential structure to increase the number of residential units in the structure.

RESTAURANT: Any establishment, however designated, at which food or drink is sold for consumption to patrons seated within an enclosed building or on the premises.

RESERVOIR SPACE: Any temporary storage space for a vehicle waiting for service or admission. Such space shall be in addition to drives, aisles or parking space required by this Local Law. One (1) reservoir space shall be twenty-four (24) feet long and ten (10) feet wide.

RETAIL BUSINESS: See BUSINESS, RETAIL.

RIDING STABLE: A horse stable used for the purpose of renting horses or ponies for rides, riding lessons, or for training of horses for specific purposes.

RIGHT-OF-WAY: Land set aside for use as a street, alley, or other means of travel.

RIGHT-OF-WAY LINE: The line determining the street or highway limit of public ownership. For the purposes of this Local Law, the right-of-way line and the street line shall have the same meaning.

ROAD

MAJOR: Streets or highways connecting through roads with each other and also handling internal movement within the town.

SECONDARY: Streets serving to connect major roads with each other and also to handle internal movement within the town.

LOCAL: Streets which primarily function to give direct access to abutting property. Local roads are the internal part of the system to provide movement within residential or to other land use areas.

PRIVATE: Roads, streets, or highways whose primary function is to serve private needs on private property. Private roads for commercial purposes shall be built to Town Standards. Example: Road for manufactured home parks, subdivisions, campgrounds.

ROADSIDE STAND: (See FARM PRODUCE STAND):

ROOMING or BOARDING HOUSE: A dwelling other than a hotel, motel or tourist home, where more than two (2) persons are housed or lodged for hire with or without meals. A rooming house is distinguished from a bed and breakfast or tourist home in that it is designed to be occupied by longer term residents as opposed to overnight or weekly guests.

SATELLITE DISH ANTENNA: Shall mean a combination of: an antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources; and a low noise amplifier whose purpose is to carry signals into the interior of a building, but shall not include a telecommunications facility as defined herein.

SCHOOL OR COLLEGE -- An institution or place of learning, including private, public and parochial facilities that provide a curriculum of elementary and secondary academic instruction, as well as higher education, including kindergartens; elementary, middle, junior and senior high schools; and two-year, four-year and advanced degree institutions. This definition shall not include day care centers (nursery schools) or specialized, trade, professional or business schools as defined below.

SCHOOL, SPECIALIZED, TRADE, PROFESSIONAL OR BUSINESS -- A school giving regular instruction in: trades or specialized skills such as welding, hair dressing, cosmetology, or massage; or professional subjects, such as the dramatic or graphic arts, business, dancing, languages, music, or sciences; or business skills such as computer programming, stenography and secretarial courses. For the purpose of these regulations, such schools shall be deemed to be commercial service establishments.

SEASONAL SERVICE RESTAURANT: A restaurant which operates only seasonally. Included are coffee shops, lunch counters, and ice cream parlors.

SERVICE ESTABLISHMENT: See Business, Service

SETBACK: The horizontal distance between the street line, rear or side lines of the lot and the front, rear or side lines of the building. For the purpose of measuring setbacks, the building shall include an enclosed porch, but shall not include any open porch, patio, deck or steps that are no higher than four (4) feet above ground level. All measurements shall be made at right angles to or radially from the lot lines to the building lines. Setbacks from street lines to building lines are defined as "front setbacks". Setbacks from side lot lines are "side setbacks". Setbacks from rear lot lines are "rear setbacks".

SHOPPING CENTER: A group of stores, shops and similar establishments occupying adjoining structures or two (2) or more commercial buildings located on a single lot or adjacent lots, with such buildings developed as part of a single integrated development with a common architectural design.

SIGN: Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to the attention of others.

AWNING SIGN: Any visual message incorporated into an awning attached to a building.

BANNER SIGN: Any sign intended to be hung either with or without frames, possessing characters, letters or illustrations applied to paper, plastic or fabric of any kind, stretched across or hung over a public right-of-way.

BILLBOARD SIGN: Any sign that attracts attention to an object, product, service, place activity, institution, organization or business not available or located on the lot where the sign is located.

CHANGEABLE LETTER SIGN: A sign where the supporting frame or structure is permanent and only the letters, displays or illustrations thereon are changeable or temporary.

CONSTRUCTION SIGN: Any sign giving the name or names of principal contractors, architects and lending institutions responsible for construction on the site where the sign is placed, together with other information included thereon.

DIRECTIONAL SIGN: A sign limited to providing information on the location of an activity, business or event.

FREESTANDING SIGN: Any sign not attached or part of any building but separate and permanently affixed by any other means in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs.

ILLUMINATED SIGN: Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign which includes reflective and phosphorescent light.

OFF-PREMISES SIGN: A sign unrelated to a business or a profession conducted, or to a commodity, or service sold or offered, upon the premises where such sign is located.

PORTABLE SIGN: A sign where on its own trailer wheels or otherwise designed to be moveable and not structurally attached in the ground or to a building, a structure or another sign.

PROJECTING SIGN: A sign which is attached to the building wall or structure and which extends horizontally from the place of such wall or structure.

REAL ESTATE SIGN: Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.

REPRESENTATIONAL SIGN: A three-dimensional sign built so as to physically represent the object advertised.

ROOF SIGN: Any sign erected or constructed wholly upon and over the roof of any building and supported solely on the roof structure.

DIRECTORY SIGN: A listing of two (2) or more business enterprises, consisting of a matrix and sign components.

TEMPORARY SIGN: A sign related to a single activity or event having a duration of no more than thirty (30) days.

WALL SIGN: A sign which is painted on or attached to the outside wall of a building with the face of the sign in the place parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall.

WINDOW SIGN: A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four (4) feet of the window, but not including graphics in connection with customary window display of products.

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

SIGN STRUCTURE: The support, uprights, bracing and framework for the sign. In the case of a sign structure consisting of two (2) or more sides where the angle formed between any two (2)

of the sides or the projections thereof exceed thirty degrees (30°), each side shall be considered a separate sign structure.

SIGHT DISTANCE: The maximum extent of unobstructed vision along a street from a vehicle located at any given point on the street.

SITE PLAN: A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, right-of-ways, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SITE PLAN, FINAL: A complete and exact subdivision or site plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

SITE PLAN, PRELIMINARY: A tentative subdivision or site plan, in lesser detail than a final plan, showing approximate proposed streets and lot layout as a basis for consideration prior to preparation of a final plan.

SITE PLAN, SKETCH: An informal plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings, and the general layout of the proposed subdivision or site.

SITE PLAN REVIEW: A review and approval process, conducted by the Planning Board, whereby Site Plans are reviewed utilizing criteria stated in this Local Law.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade.

SPECIAL PERMIT USES: Those uses that are specifically permitted in a given district only when conditioning criteria enumerated in this Local Law are met.

STORAGE FACILITY, SELF-SERVICE -- Any building or group of buildings on a single parcel made of individual storage compartments, which are rented or leased to individuals or businesses for storage of nonhazardous materials, personal property and equipment.

STREETLINE: The limit of the street width or highway right-of-way, whichever is greater.

STRUCTURE: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. For example, structures include buildings, manufactured homes, walls, fences, signs, sheds, billboards and poster panels, docks, and/or similar construction types. For the purpose of regulating setbacks and other zoning requirements, a shed or other assembly of materials that is not a motor vehicle, is larger than 12 feet by 10 feet in gross floor area and is placed on wheels or skids shall be included in the definition of "structure."

SUB-DIVISION: The division of a parcel of land into two or more parcels, which is subject to approval by the Town Planning Board pursuant to adopted Subdivision Regulations.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent (50%) of the assessed value of the structure either (a)

before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred.

SWIMMING POOL: Any body of water, or receptacle for water, with a surface area less than 1920 square feet having a capability of a depth of twenty-four (24) inches or more at any point, used or capable to be used for swimming, bathing, or wading, and permanently installed or constructed either above or below ground.

TAVERN: Any establishment, licensed by the State of New York, that engages in the sale for on premise consumption of alcoholic and non-alcoholic beverage(s).

TELECOMMUNICATIONS FACILITY: Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast communications and private radio communications services, and are regulated by the Federal Communications Commission, both in accordance with the Telecommunications Act of 1996 and other federal laws. A Telecommunication Facility shall include monopole, guyed, or latticework tower(s), as well as antenna(s), switching stations, principal and accessory telecommunication equipment and supporting masts, wires, structures, and buildings.

TEMPORARY USE: An activity or use conducted for a specified limited period of time, which may not otherwise be permitted by the provisions of this Local Law not exceeding six months. This term shall include those uses incidental to construction projects, festival tents/refreshments stands, temporary real estate sales offices incidental to a subdivision project, and similar type uses.

TOURIST FACILITIES: Uses and amenities including rest rooms, snack bars, information areas, public cultural and recreational facilities, places of public assembly and self service laundries.

TOWN BOARD - The Town Board of the Town of Shelby.

TOWNHOUSE: An independent single family dwelling unit which is one (1) of a series of dwelling units, having a common party wall between each adjacent unit, each with private outside entrance.

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

UTILITY SHED: Wood, metal or masonry building for the storage of personal property. This excludes any devices previously used for highway use, such as truck trailers or manufactured homes.

VARIANCE: A variance is any departure from the strict letter of these regulations granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and are not particular to any one landowner.

AREA VARIANCE: A variance which permits deviation from strict compliance with the dimensional requirements of the zoning regulations, as long as the purposes for which the premises area intended to be used are permitted by the Zoning Local Law.

USE VARIANCE: A variance which permits a use of land not permitted by the Zoning Local Law.

WATER DEPENDENT USES: Land uses, structures and/or economic activities that would not exist without a waterfront location.

WATER ENHANCED USES: Land uses that receive added value or importance because of proximity to a shoreline, often functioning as support services for water uses and water dependent uses.

WAREHOUSE -- A building or part of a building used or intended to be used primarily for the storage of goods or products that are to be sold retail or wholesale from other premises or sold wholesale from the same premises; for the storage of goods or products to be shipped on mail order; for the storage of equipment or materials to be used or installed at other premises by the owner or operator of the warehouse; or for similar storage purposes, or stored for use in connection with industrial assembly operations. The term "warehouse" shall not include a retail establishment whose primary purpose is for the sale of goods or products stored on the premises. However, this definition is may include purely incidental retail sales as an accessory use.

WHOLESALE ESTABLISHMENT: A business which is primarily involved in sales to other businesses, either directly or as a broker, rather than to the general public.

WINDMILL: An alternative energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein. (See also SETBACK)

YARD, FRONT: The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front line. Corner lots and through lots shall have two (2) front yards.

YARD, REAR: An open space extended across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory building and open porches. Corner lots and through lots do not have a rear yard.

YARD, SIDE: An open space on the lot with a principal building between the principal building and the side line of the lot extending through from the front yard to the rear yard, into which space there shall be no extension of building parts other than two (2) feet for rain water leaders, window sills, and other such fixtures and open steps.

YARD SALE: The temporary displaying, for no more than three (3) consecutive days in the same location, of household items and clothing for sale on a yard, porch or in a barn or garage. This term shall include garage sales, barn sales, porch sales, tag sales and other sales similar in nature.

ZONING BOARD OF APPEALS - The Zoning Board of Appeals of the Town of Shelby.

ZONING CERTIFICATE OF COMPLIANCE: See "Certificate of Compliance."

ZONING ENFORCEMENT OFFICER: The official designated to administer and enforce this Local Law by granting or denying development permits in accordance with its provisions.

ZONING PERMIT: A document issued by the Zoning Enforcement Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this Local Law.

ARTICLE III: PERMITS AND PROCEDURES

SECTION 300 PERMITS REQUIRED

- A. No building or structure shall be erected, enlarged, structurally altered or moved, no new use shall be established, and no building permit shall be granted pursuant to the Codes of New York State, until a zoning permit therefore has been issued by the Zoning Officer. No alterations to an existing building shall be made without a zoning permit, unless such alterations are exempt from a building permit pursuant to the Codes of New York State. No zoning permit, nor any certificate of occupancy or compliance pursuant to the Codes of New York State, shall be issued for any building where said construction, addition, alteration, moving or use thereof would be in violation of any of the provisions of this Zoning law, or where any necessary Town Planning Board Subdivision approval has not been granted.
- B. Permit applications shall be filed with the Zoning Enforcement Officer.

SECTION 301: PRE-APPLICATION CONFERENCE

Pre-application conferences with the Town's Planning Board are encouraged for all applications seeking permits for uses that may require a special use permit and/or site plan review (most nonresidential uses or nonfarm uses.)

SECTION 302 APPLICATION PROCEDURE AND REQUIRED INFORMATION

- A. Application for a zoning permit shall be made with the Zoning Enforcement Officer on forms approved by the Town Board. Forms shall be made available at the Offices of the Zoning Enforcement Officer and the Town Clerk.

- B. Information

All information on the application form shall be completed.

- C. Map required

One copy of a property map shall be submitted with all applications. The map shall be either:

1. Sketch Map: A sketch map is required with all applications for a zoning permit for one or two family dwellings, their customary accessory uses, or farm use. The sketch map shall be drawn to scale and show the dimensions and location of the lot, exact size and location of all existing and proposed buildings on the lot, proposed location of water and sewage disposal systems, parking areas and driveway location, natural water courses, ponds, surface drainage patterns or location of existing or proposed easements.

2. Site Plan: A site plan is required with applications for all other uses, including application for residential uses in a Historic Zone. The requirements and procedures for site plan approval are in Article X.
- D. Approval of Water and Sewage Disposal Systems: Evidence of approval of the water supply and the sewage disposal system plans by the Orleans County Health Department or its agent, or design plans signed by a licensed engineer, shall be submitted at the time of application. Applications lacking such information shall not be accepted.
- E. Approval of the County Highway Superintendent or Town Highway Superintendent is required for any driveway pipes or culverts on County or Town roads.
- F. Evidence of Property Ownership or Intent to Purchase. Copies of deeds, titles, purchase agreements, or other proof of ownership or intent to purchase shall be attached to an application before it will be accepted.
- G. Licenses: Any use currently licensed by Federal, State, County or Town Agencies and already operating within the Town shall present evidence of currently valid licenses before any expansion permits are considered.
- H. Fee: The appropriate non-refundable fee established by the Town Board in its fee structure shall be collected at the time of application. This fee structure shall be filed and posted at the Offices of the Town Clerk and the Zoning Enforcement Officer.

SECTION 303 ZONING PERMIT TYPES

Under the terms of this Local Law, the following types of Zoning Permits may be issued:

- A. Permitted Use. A zoning permit for a permitted use may be issued by the Zoning Enforcement Officer on his own authority.
- B. Site Plan Approval. A zoning permit for a permitted or special permit use that requires Site Plan Review may be issued by the Zoning Enforcement Officer after special permit and/or site plan approval from the Planning Board, as more fully described in Article X.
- C. Zoning Permit After a Request for Variance. A Zoning Permit for a use or structure which requires a variance may be issued by the Zoning Enforcement Officer upon order of the Zoning Board of Appeals, after a public hearing, as more fully described in Article VIII.

SECTION 304 ZONING PERMIT GRANTED

When all requirements of this Local Law have been met, the Zoning Enforcement Officer shall issue a Zoning Permit and return one approved copy of the map to the applicant no later than five (5) days after approval. The Zoning Enforcement Officer shall file one copy of the approved permit in the Town Clerk's office.

SECTION 305 TERMINATION OF PERMIT

- A. Any zoning permit for which construction or use has not commenced within one (1) year after issuance shall be automatically revoked.
- B. The Zoning Enforcement Officer may grant an extension for time of completion. Unless such an extension is requested and approved, further work as described in the canceled permit shall not proceed until a new permit has been obtained.
- C. If a project is not initiated within six (6) months of the issuance of the extension, the permit issued shall be considered null and void.

SECTION 306 CERTIFICATE OF ZONING COMPLIANCE

- A. The applicant shall notify the Zoning Enforcement Officer when the structure or use is ready for final inspection. The Zoning Enforcement Officer shall then make a final inspection. If satisfied that the regulations pertaining to the project have been complied with and that the project has been completed as specified on the approved application, the Zoning Enforcement Officer shall issue a certificate of Zoning Compliance granting permission to occupy or use the structure. Permission to occupy a building or structure also requires approval from the Code Enforcement Officer.
- B. The Certificate of Zoning Compliance may be issued at the same time, and may be administered using the same form as, the Certificate of Occupancy or Compliance issued pursuant to the Codes of New York State.

SECTION 307 FLOOD PLAIN CERTIFICATE

The applicant shall notify the Zoning Enforcement Officer for inspection. The Applicant shall comply with Local Flood Hazard Law before any permit(s) are approved.

SECTION 308 STOP WORK ORDER

A stop work order may be issued when the Zoning Enforcement Officer discovers a project commencing without required permits. A fee will be charged for the removal of any structure erected without the proper permits stop work order.

ARTICLE IV: ESTABLISHMENT AND DESIGNATION OF ZONING DISTRICTS

SECTION 400 ESTABLISHMENT OF DISTRICTS

The Town of Shelby is hereby divided into zoning districts as hereinafter set forth and as the same may, from time to time, be amended.

- HA Hamlet
- AR Agricultural/ Residential
- RR Rural Residential
- WDO Waterfront Development Overlay**
- WR Waterfront Residential
- GB General Business
- LI Light Industrial
- I Industrial
- F Flood Hazard Overlay District
- HD Historic District
- PD Planned Development District
- MR Maple Ridge Overlay**
- A Adult Business Overlay**

SECTION 401 ZONING MAP

- A. Said districts are bounded as shown on the map entitled "Zoning Map of the Town of Shelby adopted by the Town Board and certified by the Town Clerk which accompanies, and which, with all explanatory matter, is hereby made a part of this Local Law.
- B. Changes made in zoning district boundaries, or other matters portrayed on the zoning map under the provisions set forth herein, shall be permanently affixed to the zoning map promptly after an amendment has been approved by the Town Board and shall convey information as to the date and nature of the change. No amendment to this Local Law, which involves matters portrayed on the zoning map, shall become effective until such change and entry has been made on said zoning map and has been attested to by the Town Clerk.

SECTION 402 INTERPRETATION OF DISTRICT BOUNDARIES

- A. District boundaries indicated as approximately following the center lines of streets or highways shall be construed as following such center lines.
- B. District boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. District boundaries indicated as being approximately parallel to the center lines or right-of-way lines of streets or highways shall be construed as being parallel thereto and at such

distances therefrom as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said zoning map.

- D. District boundaries indicated as approximately following a stream, lake or other body of water shall be construed to follow the center lines of such stream or other body of water.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- F. In case of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Enforcement Officer shall request the Zoning Board of Appeals to render its determination.

SECTION 403 APPLICATION OF REGULATIONS

The regulations set by this Local Law shall be the minimum regulations within each district and shall apply uniformly to each class or kind of structure or use of land, except as hereinafter provided:

- A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered which:
 - 1. Exceeds the height limitation for any structure within a specified district;
 - 2. Accommodates or houses a greater number of dwelling units than is permitted within a specified zoning district;
 - 3. Occupies a greater percentage of lot area than is permitted by the zoning schedule; or
 - 4. Has narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Local Law or the requirements of the Codes of New York State.
- C. No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with the regulations set forth herein, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as provided in Sections 601 and 602.
- D. No yard or lot existing at the time of enactment of this Local Law shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Local Law shall meet or exceed the minimum requirements established herein.

ARTICLE V: DISTRICT REGULATIONS

SECTION 500 HAMLETS (HA)

A. PURPOSE

The purposes of the Hamlet Zone are to recognize the crossroads community as a unique area where residences and businesses co-exist in close proximity, providing necessary basic services and other small business uses as well as a distinct residential environment.

B. PERMITTED USES

1. One and Two Family Dwellings subject to the requirements of Section 619
2. Farm Produce Stands
3. Agriculture, except for animal husbandry

C. CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT USE REGULATIONS. ARTICLE VII.)

1. Bed & Breakfast
2. Farm Market
3. Home Business
4. Multi-Family Dwelling
5. Neighborhood Business
6. Professional Offices
7. Motor Vehicle Repair Shop
8. Gasoline Station
9. Essential Services and Public Utilities
10. Public and Semi-Public Buildings and Grounds

D. PERMITTED ACCESSORY USES

1. Home occupations
2. Farm produce stands
3. Signs as regulated in Section 600.
4. Private garages; Off-street parking and loading areas
5. Private recreational facility (swimming pool, etc.)
6. Other uses and structures customarily incidental to permitted principal uses.

Accessory uses shall not be used on a commercial basis except home occupations and approved home businesses.

E. SPECIFICATIONS

Minimum Setback Requirements	
Front (1):	35 Feet from Town roads; 50 feet from County and State highways
Side:	15 feet
Rear:	30 feet (principal uses) 5 feet (accessory uses)
Lot Width:	125 feet
Road Frontage:	125 feet
Minimum Lot Size:	25,000 sq. ft.
Building Height:	35 Feet (except Agricultural Storage Facilities and Airport Structures.
Maximum Building Coverage:	30%
Minimum "Green Space":	20%

(1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

F. OTHER PROVISIONS AND REQUIREMENTS

1. Buffer Strip

Commercial structures shall provide a natural buffer strip to be perpetually maintained so as to provide visual screening and separation between commercial and residential uses.

2. Refuse Containers

Commercial refuse containers shall be placed on concrete slabs and visually screened, while providing rodent control.

SECTION 510 AGRICULTURAL/ RESIDENTIAL DISTRICT (AR)

A. PURPOSE

The purpose of the Agricultural/ Residential (AR) District is to protect agricultural lands and uses from incompatible uses and development; to maintain an open rural character of the community; to assure compatible types and densities of development; to provide for low density, rural development; and to protect the natural environment.

B. PERMITTED USES

1. Agriculture
2. One and Two Family Dwellings subject to the requirements of Section 619
3. Farm Produce Stands
4. Public Park or Recreation Area

C. PERMITTED ACCESSORY USES

1. Home occupations
2. Family Home Day Care
3. Signs, as regulated in Section 600.
4. Private garages; Off-street parking and loading areas
5. Private recreational facility (swimming pool, tennis court, etc.)
6. Farm Produce Stands
7. Other uses and structures customarily incidental to permitted principal uses.

Accessory uses shall not be used on a commercial basis except home occupations, approved home businesses and other conditional uses, and agricultural services.

Permitted accessory structures may be erected and/or maintained in the rear yard at least 20 feet from the rear and side lines of the lot.

D. CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT REGULATIONS, ARTICLE VII)

1. Agricultural Processing or Distribution facility
2. Animal Hospital
3. Farm Market
4. Farm Labor Camp
5. Bed and Breakfast Inn
6. Home Business

7. Private airport
8. Campground
9. Excavation and Mining
10. Kennel
11. Essential Services and Utilities
12. Junk Yards, subject to a license from the Town Board, and subject to the following dimensional requirements:
 - Minimum Lot Size: **15 acres**
 - Minimum Lot Width: **600 feet**
 - Minimum Front Setback: **100 feet**
 - Minimum Side and Rear Setbacks: **100 feet**
13. Public and Semi-Public Uses
14. Outdoor Commercial Recreation Facilities
15. Riding Stable
16. Ponds
17. Conference/ Resort complex
18. Manufactured home parks
19. Telecommunications Facility
20. Seasonal Dwelling
21. **Motor Vehicle Repair Shop**

E. SPECIFICATIONS

Minimum Setback Requirements:	
Front: (1)	75 Feet from Town roads 75 feet from County and State highways
Side:	30 Feet (principal buildings) 30 feet (accessory buildings)
Rear:	30 Feet (principal and accessory buildings)
Lot Width:	150 feet
Road Frontage:	150 feet
Minimum Lot Size:	30,000 sq. ft., or a lot size sufficient to meet Health Department Specifications for adequate sewage/ septic tank disposal
Building Height:	35 Feet (except Agricultural Storage Facilities and Airport Structures)
Maximum Building Coverage:	30%
Minimum "Green Space":	25%

- (1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 520 RURAL RESIDENTIAL DISTRICT (RR)

A. PURPOSE

The purpose of the R-R Rural Residential District is to provide a stable environment for rural residential development, free from incompatible uses. Uses in this district are either served by public water and/or sewer or are areas with densities high enough to support such facilities if growth is likely or encouraged.

B. PERMITTED USES

1. Agriculture, except that farm animals shall comply with the regulations in Section 697.
2. One and Two Family Dwellings, subject to the requirements of Section 619.
3. Public Park or Recreation Area

C. PERMITTED ACCESSORY USES

1. Home occupations
2. Family Home Day Care
3. Farm Produce stands, in connection with a principal farm use on the same lot
4. Signs, as regulated in Section 600.
5. Private garages; Off-street parking and loading areas
6. Private recreational facility (swimming pool, tennis court, etc.)
7. Other uses and structures customarily incidental to permitted principal uses.
8. The keeping, breeding, and raising of farm animals in association with a residential use, subject to the provisions of Section 697.

Permitted accessory structures may be erected and/or maintained in the rear yard at least ten (10') feet from the rear and side lines of the lot.

Accessory uses shall not be used on a commercial basis except home occupations, approved home businesses and other conditional uses

D. CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL USE REGULATIONS, ARTICLE VII)

1. Home Business
2. Multiple Family Dwellings
3. Essential Services and Utilities
4. Bed and Breakfast
5. Public and Semi-Public Buildings and Grounds
6. Outdoor Commercial Recreation Facilities
7. Ponds

E. SPECIFICATIONS

Minimum Setback Requirements:	
Front: (1)	75 Feet from Town roads 75 feet from County and State highways
Side:	30 Feet (principal and accessory buildings)
Rear:	30 Feet (principal and accessory buildings)
Lot Width:	150 feet
Road Frontage:	150 feet
Minimum Lot Size:	30,000 sq. ft., or a lot size sufficient to comply with Health Department specifications for adequate sewage/ septic tank disposal
Building Height:	35 Feet (except Agricultural Storage Facilities and Airport Structures)
Maximum Building Coverage:	30%
Minimum "Green Space":	25%

(1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 530 GENERAL BUSINESS DISTRICT (GB)

A. PURPOSE

The purpose of the General Business District is to provide for business establishments serving the needs of area residents, especially retail and service businesses. Permitted uses are intended to create a business districts free from conflicting land uses.

B. PERMITTED USES

1. Single Family Dwellings, subject to the requirements of Section 619
2. Two-Family Dwellings
3. Agriculture, except that farm animals shall comply with the regulations in Section 697.
4. Retail, Service and General Business, including Farm Markets and Roadside Stands
5. Professional Offices
6. Restaurants and Taverns
7. Custom shops, including but not limited to printing, electrical, heating, plumbing, or woodworking.
8. Assembling, converting, altering, finishing, cleaning, or any other processing of products, provided that:
 - a. Goods so produced or processed are to be sold at retail on the premises;
 - b. Space used for such purposes shall not occupy more than 20 percent of the area devoted to retail sales, shall be clearly incidental to such retail use and shall be fully concealed from any street;
 - c. Not more than two (2) persons shall be engaged in such production/ processing at any one time.
9. Hotels and Motels
10. Newspaper Printing
11. Commercial storage
12. Indoor commercial recreation facilities
13. Funeral homes
14. Other business uses that, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

C. PERMITTED ACCESSORY USES

1. Private garage space for the storage of commercial vehicles used in conjunction with a permitted business use.
2. Off-street parking, loading and unloading facilities subject to the provisions of Sections 601 and 602 of this Local Law.

3. Signs, subject to the provisions of Section 600 of this Local Law.
4. Other uses and structures that are customarily incidental to and that are subordinate in size and extent to permitted uses and structures.
5. Other uses that, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD
(SUBJECT TO SPECIAL PERMIT USE REGULATIONS, ARTICLE VII)

1. Motor Vehicle Repair
2. Motor Vehicle Sales/ Rental
3. Gasoline Station
4. Outdoor commercial recreation facilities
5. Riding Stable
6. Agricultural Distribution and Processing Facilities
7. Home Business
8. Bed & Breakfast Inn
9. Essential Services and Public Utilities
10. Multiple Family Dwelling
11. Public and Semi-Public Buildings and Grounds
12. Drive-In Business
13. Telecommunication Facility
14. Veterinarian/ Animal Hospital, with indoor facilities only

E. OTHER PROVISIONS AND REQUIREMENTS

1. Buffer Strip: Commercial uses shall provide a natural buffer strip to be perpetually maintained so as to provide visual screening and separation between commercial and residential uses.

A solid or woven fence min. 8' to max 10' may be used to shield the residential area. If a living barrier is used, a 6' strip is required per row of plantings.

2. Refuse Containers:

Commercial structures shall provide a commercial type refuse container on site. Such containers shall be placed on concrete or stone areas and visually screened, and shall provide rodent control.

3. Residential Lot Line: No commercial structure shall be permitted within fifty (50) feet of the nearest lot line of any residential district.

F. SPECIFICATIONS

Setback Requirements	
Front (1):	75 Feet from Town roads 75 feet from County and State highways
Side:	30 Feet (principal and accessory structures)
Rear:	50 Feet (principal and accessory structures)
Lot Width:	150 feet
Road Frontage:	150 feet
Minimum Lot Size:	30,000 sq. ft., or a lot size sufficient to comply with Health Department specifications for adequate sewage/ septic tank disposal
Building Height:	35 feet (except Agricultural Storage Facilities)
Maximum Building Coverage:	30%
Minimum "Green Space":	25%

(1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 540 LIGHT INDUSTRIAL DISTRICT (LI)

A. PURPOSE

The purpose of the Light Industrial District is to provide for manufacturing, assembly, storage facilities, and other compatible business uses, and to ensure that these uses will not be detrimental or hazardous to the surrounding community.

B. PERMITTED USES

Any light industrial or agri-industrial nature is permitted which involves only the processing, assembly, or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause:

- Dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare or vibration shall not be discernable beyond the property lines of the industry.
- Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any land adjacent to the site of the uses.

The following uses are indicative of those that are intended to be permitted:

1. Agriculture
2. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabrication incidental thereto.
3. Administrative, educational and other related activities and facilities in conjunction with a permitted use.
4. Manufacture or assembly of electric, electronic or optical instruments or devices.
5. Light manufacturing, assembling, fabricating or packaging of products from previously prepared materials such as cloth, plastic, paper, leather, precious or semi-precious metals, wood, metal, or stone.
6. Agricultural product processing, including manufacturing of food products, pharmaceuticals, cosmetics and the like.
7. Precision machining, tool and die work.
8. The warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of fuel or petroleum products, nuclear or radioactive products, toxic waste chemicals is specifically excluded from the intent of the above.
9. Newspaper printing
10. Essential services and public utilities
11. Custom shops, including but not limited to printing, electrical, heating, plumbing, or woodworking.
12. Self-service storage facility
13. Motor Vehicle Repair Shop
14. Other uses that, in the opinion of the Zoning Board of Appeals, are similar in nature and scale to those permitted above.

C. PERMITTED ACCESSORY USES

1. Signs shall be permitted for advertising industrial activities on the premises. Such signs shall not exceed, in aggregate, 15% of the area of the front façade of the building. Such signs may be illuminated but shall not be of the flashing type. Signs shall be otherwise subject to the provisions of Article VI, Section 600, SIGNS of this Local Law.
2. Private garages and storage buildings which are necessary to store any vehicles, equipment or materials on the premises and which are used in conjunction with a permitted use.
3. Off-street parking space subject to the provisions of Article VI, Sections 601 of this Local Law.
4. Off-street loading and unloading facilities, subject to the provisions of Section 602 of this Local Law.

5. Other accessory uses that, in the opinion of the Zoning Board of Appeals, are incidental to and subordinate in scale and extent to a permitted use.

D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD
(SUBJECT TO SPECIAL PERMIT USE REGULATIONS, ARTICLE VII)

1. Telecommunications Facility

E. PROVISIONS AND REQUIREMENTS

1. Residential uses shall be prohibited except for a caretaker's residence on-site.
2. All manufacturing, assembly, research, engineering, administration, storage and all other non-agricultural related activities shall be conducted wholly within enclosed buildings.

Incidental storage out of doors may be permitted provided that such materials are shielded from view from public streets and adjacent off-street parking areas by fencing, landscaping or other appropriate measures.

3. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as to adjacent development.
4. All uses permitted shall set aside not less than 10 percent of the lot area to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall not be used for any other industrial, storage, or commercial purposes.
5. Each use shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
6. Parking or loading areas may be located in any of the required yard areas provided they are not less than 50 feet from a right-of-way line or 20 feet from a property line. Off-street loading facilities shall be subject to the additional provisions of Section 602 of this Local Law. Off-street parking space shall be subject to the provisions of Section 601 of this Local Law.
7. Industrial structures and outdoor storage areas shall be located a minimum of 75 feet from any non-industrial district. A natural buffer strip shall be placed and maintained so as to provide visual screening and separation between industrial and non-industrial uses.
8. Refuse containers shall be placed on concrete slabs and visually screened, while providing rodent control.

F. SPECIFICATIONS

Setback Requirements:	
Front (1):	75 Feet (measured from right-of-way line)
Side:	50 Feet
Rear:	50 Feet
Height:	35 Feet
Lot Width:	150 Feet
Minimum Lot Size:	One (1) acre.
Maximum Building Coverage:	30%
Minimum "green space"	25%

(1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 541 INDUSTRIAL (I) DISTRICT

A. PURPOSE

To accommodate a variety of industrial uses that may not be permitted in the LI District.

B. PERMITTED USES

All uses that are permitted in the LI District

C. PERMITTED ACCESSORY USES

Accessory uses shall be permitted as described in Section 540.C (Accessory uses in the LI district).

D. USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD
(SUBJECT TO SPECIAL PERMIT USE REGULATIONS, ARTICLE VII)

1. Heavy industry, as defined herein, including manufacturing, assembly, storage and related activities such as stone quarrying, concrete mixing operations and sawmills that require outdoor storage or outdoor processing of materials.
2. Telecommunications Facility
3. Excavation or Mining

E. PROVISIONS AND REQUIREMENTS

1. Residential uses shall be prohibited except for a caretaker's residence on-site.
2. All uses permitted shall set aside not less than 10 percent of the lot area to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area shall not be used for any other industrial, storage, or commercial purposes.

3. Each use shall provide truck loading and unloading areas in an amount sufficient to permit the transfer of goods and products in other than a public street, off-street parking area or front yard.
4. Parking or loading areas may be located in any of the required yard areas provided they are not less than 50 feet from a right-of-way line or 20 feet from a property line.
5. Off-street loading facilities shall be subject to the additional provisions of Section 602 of this Local Law.
6. Off-street parking space shall be subject to the provisions of Section 601 of this Local Law.
7. Industrial structures and outdoor storage areas shall be located a minimum of 75 feet from any non-industrial district. A natural buffer strip shall be placed and maintained so as to provide visual screening and separation between industrial and non-industrial uses.
8. Refuse containers shall be placed on concrete slabs and visually screened, while providing rodent control.

F. SPECIFICATIONS

Setback Requirements:	
Front (1):	75 Feet
Side:	50 Feet
Rear:	50 Feet
Height:	35 Feet
Lot Width:	150 Feet
Minimum Lot Size:	One (1) acre.
Maximum Building Coverage:	35%
Minimum "green space"	25%

(1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 550 FLOOD HAZARD OVERLAY (F)

- A. The Flood Hazard District is established to conform with the "Flood Insurance Rate Map" and Flood Boundary-Floodway Map prepared by the Federal Emergency Management Agency (FEMA).
- B. Such areas shall be subject to the provisions of Town of Shelby Local Law # ___ in addition to the use regulations and other provisions of this Zoning Local Law.
- C. The provisions of such Local Law shall take precedence over any other zoning article, or to the extent that the provisions of this zone are inconsistent with such other provisions.

SECTION 560 HISTORIC DISTRICT OR LANDMARK (HD)

The purpose of the Historic District or Landmark is to preserve certain areas or sites of historical or cultural significance in the Town of Shelby. Development in these areas should be consistent with the architectural, cultural, or historic character of the area.

A. Applicability

Any lot or parcel designated as a Historic District or Landmark as herein after provided shall be subject to the provisions and requirements of this Section in addition to those of the zone in which the lot or parcel is located. If there shall be any conflict or inconsistency between such provisions and requirements, the provisions and requirements of this Section shall take precedence and prevail.

B. Designation Procedure

The Planning Board may designate any lot or parcel as a Historic District or Landmark only after a public hearing held on at least 10 days notice, published in the official newspaper of the Town and served by personal delivery or certified mail upon the owner of such lot or parcel as shown on the last completed assessment roll of the Town; and only after receiving evidence at such hearing and finding that such lot or parcel has historic significant; (1) because of the historic importance of the present or former owner, or (2) because of historic events or happenings that occurred upon the latter parcel, or (3) because of the unusual or classic nature of the architecture or construction of a building or another structure thereon. The Planning Board must make a written designation specifying the finding or findings or grounds upon which it relied in making its designation.

C. Other provisions and requirements

- 1. All building permits, including residential exterior alteration resulting in an essential change in the building, shall require Site Plan Approval.
- 2. All demolition or substantial exterior alteration resulting in an essential change in the building shall require Site Plan Approval.

3. The Town Planning Board Site Plan Review must demonstrate the following additional requirements in its findings.
 - a. The building or use is consistent with the architecture and historic significance of the area.
 - b. The building or use does not encroach, diminish or otherwise lessen the significance of other structures or uses within the area.
 - c. For demolition permits, evidence of overwhelming construction or structural problems must be shown to preclude any reasonable effort at rehabilitation, restoration, or preservation. Evidence must be in the form of a written contractor's estimate.
4. The Planning Board may consult historic experts to aid in demonstrating the requirements of Part C., above.

SECTION 570 WATERFRONT RESIDENTIAL (WR)

A. Purpose

The purpose of the WR Waterfront Residential District is to recognize the **manmade/ natural lake shoreline** and its **tributaries**, as a **unique resource** and to **control future growth in a manner which respects the environmental limitations of the waterfront and affords maximum public enjoyment of the area.**

B. Permitted Uses.

1. One and Two Family Dwellings, subject to the requirements of Section 619.

C. PERMITTED ACCESSORY USES

Uses and structures customarily incidental to permitted uses and structures. Accessory uses are not to be used on a commercial basis except for home occupations.

D. CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT USE REGULATIONS, ARTICLE VII)

1. Multiple Family Dwellings
2. Essential Services and Utilities, including flood and erosion protection structures
3. Bed & Breakfast Inn
4. Ponds
5. Seasonal Dwelling

E. SPECIFICATIONS

Minimum Setback Requirements:	
Lake Shore Property	
Setback from mean high water mark	Principal Structures: 75 feet Accessory Structures: 20 feet
Setback from private lane (1):	20 feet (principal and accessory)
Non-Lakeshore Property (Lake View Property)	
Front (roadside) (1):	35 feet from private lane 35 feet from Town roads 75 feet from State or County Roads
Rear:	20 Feet (principal and accessory structures)
All Properties	
Side:	15 Feet (principal and accessory structures)
Lot Width:	100 feet
Road Frontage:	100 feet
Minimum Lot Size:	30,000 sq. ft., or a lot size sufficient to comply with Health Department specifications for adequate sewage/ septic tank disposal
Building Height:	35 Feet (except Agricultural Storage Facilities)
Maximum Building Coverage:	30%
Minimum "Green Space":	25%

(1) Front or roadside setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 513 WATERFRONT DEVELOPMENT OVERLAY DISTRICT (WDO)

A. PURPOSE

The intent of these regulations is enable property owners to take advantage of the Erie Canal and Glenwood Lake as a tourist generator by allow for the development of tourism and tourist-related businesses on property that abuts or is in close proximity to the Erie Canal or Glenwood Lake.

The intent of these regulations is enable property owners to take advantage of the Erie Canal as a tourist generator by allow for the development of tourism and tourist-related businesses on property that abuts or is in close proximity to the Erie Canal.

B. PERMITTED USES

1. All uses permitted by the underlying zoning district.
2. Public uses which depend on proximity, access and/or utilization of the water, including but not limited to the following:
 - a. Public recreation and swimming
 - b. Flood and erosion protection structures

C. PERMITTED ACCESSORY USES

All accessory uses permitted by the underlying zoning district, subject to the requirements of the underlying district.

D. CONDITIONAL USES REQUIRING A SPECIAL PERMIT ISSUED BY THE PLANNING BOARD (SUBJECT TO SPECIAL PERMIT USE REGULATIONS ARTICLE VII)

1. Any use allowed with a Special Permit in the underlying zoning district
2. Hotels and Motels
3. Campgrounds
4. Conference/ resort complex
5. Restaurants other than drive-in restaurants
6. Boat marinas, boat rental businesses, and charter boat services
7. Public or semi-public tourist facilities, such as restrooms, information centers, museums, places of public assembly

8. **Neighborhood businesses and professional offices that are enhanced by a waterfront location and proximity to water-dependent uses, including, but not limited to, the following:**
 - a. **Sales or rental of fishing and tackle equipment**
 - b. **Marine service, repair, rental and accessories**
 - c. **Self-service laundries**
9. **Mixed uses and facilities that are consistent with the above uses, and which are approved by the Planning Board as being consistent with the adopted Comprehensive Plan.**
10. **Other uses as determined by the Zoning Board of Appeals to be consistent with the intent and purpose of this Section.**

E. PROHIBITED USES

The following uses are expressly prohibited:

1. **Amusement parks and carnivals**
2. **Flea market sales**
3. **Motorized amusements, e.g., go-carts, motorcycles, snowmobiles, etc.**

F. DIMENSIONAL SPECIFICATIONS

Dimensional specifications are stated in the requirements of the underlying zoning district, unless specific requirements are included in the criteria for individual special permit uses.

Minimum Setback Requirements:	
Lake Shore Property	
Setback from mean high water mark	Principal Structures: 75 feet Accessory Structures: 20 feet
Setback from road (1):	20 feet from private lane 50 feet from Town or County roads 75 feet from State Highways
Non-Lakeshore Property (Lake View Property)	
Front (roadside) (1):	35 feet from private lane 50 feet from Town or County roads 75 feet from State Highways
Rear:	20 feet (principal structures) 10 feet (accessory structures)
All Properties	
Side:	15 Feet (principal and accessory structures)
Lot Width:	100 feet
Road Frontage:	100 feet
Minimum Lot Size:	30,000 sq. ft., or a lot size sufficient to comply with Health Department specifications for adequate sewage/ septic tank disposal
Building Height:	35 Feet (except Agricultural Storage Facilities)
Maximum Building Coverage:	30%
Minimum "Green Space":	25%

(1) Front or roadside setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

SECTION 580 MAPLE RIDGE ROAD OVERLAY DISTRICT

A. PURPOSE

The purpose of this district is to provide for superior design and aesthetics along Maple Ridge Road, a major highway bordering and serving the Town of Shelby and the Village of Medina. These regulations are intended to supplement the underlying zoning regulations to provide for harmony, continuity and aesthetically pleasing development along Maple Ridge Road.

B. ALL USES REQUIRE SITE PLAN APPROVAL

All principal, accessory, and special uses permitted in the underlying zoning district shall be permitted in the Maple Ridge Road Overlay District except that all uses in the Maple Ridge Overlay District that are located on parcels with frontage along Maple Ridge Road at the time of adoption of this Local Law shall:

1. require site plan review and approval, and
2. comply with the additional requirements and provisions enumerated in this Section as well as complying with all the requirements and provisions of the underlying zoning district. If the requirements of this Section differ from those in the underlying zoning district, the more restrictive requirements shall apply.

C. GENERAL LANDSCAPING REQUIREMENTS

1. A minimum ground area of not less than ten percent (10%) of the total area to be developed shall be the landscaped area required.
2. The arrangements and location of a landscaped area shall be dispersed through the development site so as to prevent unsightliness and monotony of parked cars.
3. Landscape treatments shall be designed as an integral part of the entire development.
4. Vegetation shall be compatible with soil conditions on the development and the regional climate.
5. Existing natural features and vegetation shall be preserved and incorporated in the landscaped area. The primary emphasis shall be on preserving and integrating into the site design existing trees to the extent feasible. The preservation of existing trees shall be encouraged.
6. Trees shall be planted throughout the developed area at a ratio of one (1) tree per every ten (10) parking spaces, with a minimum of six (6) trees for any site. Trees may be spaced evenly or clustered. Acceptable trees shall be limited to those trees listed on the Maple Ridge Corridor District Tree List. This list is available from the office of the Clerk. Substitution of plant material may be approved by the Planning Board.

7. The use of plastic or other types of artificial plantings or vegetation is prohibited.
8. All required planting shall be maintained by the property owner in a healthy and productive condition and shall be routinely examined and replaced as necessary.
9. All utility services shall be underground
10. Permanent outside storage or sales areas shall be screened or buffered so as to be in harmony with the building design and the appearance of the development

D. LANDSCAPING REQUIREMENTS FOR PARKING LOTS

1. No less than five percent (5%) of the interior of a parking lot area designated for ten (10) cars or more shall be devoted to the required landscape area.
2. Each interior landscaped area shall be at least one hundred (100) square feet in area.
3. Each interior landscaped area shall be contain at least one (1) approved tree.
4. Off-street loading areas, where visible from a public street, must be arranged so as to be screened from view from such public street by wooden, rock or masonry fences at least eight (8) feet high. All refuse storage areas shall be completely surrounded by wooden, brick or masonry fences at least eight (8) feet high.

E. PARKING SPACE AND PARKING LOT REQUIREMENTS

1. There shall be at least five (5) parking spaces for every one thousand (1,000) gross square feet of building area. The Planning Board may approve a reasonable reduction of the number of parking spaces required for a project if it can be demonstrated to the satisfaction of the Planning Board that such a reduction will not create overflow parking problems, will not adversely impact on the access roads and that the additional space not required for parking will be used for landscaping or open space within the site.
2. Right-angle parking is preferred. Each parking module consisting of the length of a parking space, the drive aisle and the second length of a parking space shall be a minimum of sixty-two (62) feet wide. Each parking space shall be a minimum of nine (9) feet wide. The planning Board may waive or modify the parking dimension requirements to allow angle parking. .
3. All requirements providing for handicap parking shall be met.

F. SPECIFICATIONS

1. **Minimum Setback Requirements**
 - a. All buildings shall be set back not less than seventy-five (75) feet from the street right-of-way line. This seventy-five (75) foot setback area shall be landscaped with grass, trees and shrubs and shall be curbed. No parking or

parking lots shall be permitted in this area. Pedestrian circulation, utility facilities and accessways shall be allowed in this area.

- b. All buildings shall be setback not less than twenty (20) feet from the side and rear lot lines and not less than fifty (50) feet from the lot line of any residential district.
 - c. Parking areas shall be separated from adjoining properties by a yard with a width of no less than five (5) feet.
2. Minimum Lot Size
- a. No lot shall be less than one (1) acre in size.
 - b. No lot shall have a width less than one hundred fifty (150) feet.
3. Maximum Building Height and Coverage
- a. No building or other structures shall exceed a height of thirty-five (35) feet, except for light standards.
 - b. The buildings and other structures on any lot shall not cover an excess of fifty percent (50%) of the gross area of the lot.

SECTION 585 ADULT BUSINESS OVERLAY DISTRICT

The provisions of Local Law No. 3 of 1999 (Shelby) apply.

**SECTION 590 PDD - PLANNED INDUSTRIAL/ COMMERCIAL
DEVELOPMENT DISTRICT**

A. Purpose

The PD - Planned Industrial/ Commercial Development District has been designed to encourage commercial and industrial development that conforms to a coordinated site development plan for a relatively large area. Such development should represent the most efficient and productive use of the land area so zoned. Individual uses permitted in this zone shall be designed and constructed so as not to preclude further industrial or commercial development within the PD zoning district.

B. Objectives

1. The proposed industrial and/ or commercial development shall be in harmony with the general purpose, goals and objectives of the Comprehensive Plan and this Local Law.
2. The proposed development shall comply with all applicable regulations of this Local Law except as modified by the authority of this Section.
3. The proposed development shall not have a substantial adverse effect upon adjacent properties, utility facilities, traffic conditions and other matters that would affect the public health, safety and general welfare.
4. The proposed development shall be constructed, arranged and operated so as to not interfere with the development and use of neighboring properties.
5. The proposed development shall be adequately served by essential public facilities and services, such as but not limited to sanitary sewers, public water supply, stormwater drainage facilities and highway capacity.
6. The proposed development shall make appropriate provisions for the preservation of trees, streams, wetlands, natural topography and geological features and the prevention of soil erosion.

C. General Requirements

1. All industrial and commercial uses permitted in the I - Industrial and B - General Business zoning districts are permitted in this district, except for residential uses.
2. Accessory uses permitted in the commercial and industrial district are permitted as accessory uses in the PD District.
3. The minimum area required for a Planned Development shall be forty (40) contiguous acres of land. However, if an applicant can demonstrate that the characteristics of the property proposed for such use can meet the objectives of this Section, projects with less acreage will be considered.

4. Where an applicant proposes the use of a portion of the site as common property, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities. For the purpose of this Section, the term "common property" shall be defined as a parcel of land, together with improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the Planned Development.
5. Individual buildings within a Planned Development shall be related to each other in design, mass, materials, placement and connections to provide a visually and physically integrated development.
6. Utility lines providing electric, telephone, television or other services shall be installed underground.

D. Application Procedures

Approval of a Planned Development shall be made by the Town Board, following review and recommendation from the Planning Board.

1. Planning Board Review

The applicant shall meet with the Planning Board to describe the intent of the proposed development, to discuss design and development objectives and to submit a concept plan which depicts the manner in which the proposed project is to be developed. At this meeting, the applicant shall describe how the proposed development would be integrated with neighboring land uses, community features and public facilities and services. The concept plan shall be to scale and shall include the following information:

- a. The principal physical characteristics of the site, including an analysis of the soils and sub-soils and the location of major stands of trees, streams, floodplains and rock outcropping.
- b. The topography of the site with contour intervals of not more than five (5) feet of elevation; areas of the site where grades exceed three percent (3%); portions of the site with a moderate to high susceptibility to erosion, flooding or ponding; and, a preliminary grading plan with five-foot contour intervals.
- c. An analysis of the relationship of the site to the surrounding community, including significant parcels of vacant land and the character of nearby built-up areas.
- d. A conceptual site development plan which presents: a proposed lotting pattern, including the number and general sizing of individual lots; estimates of vehicular traffic volumes to be generated; a suggested internal street system, suggested sidewalks and circulation flows; a description of how the site will be tied to the existing street and pedestrian network; estimated demands for water and sewer services; a suggested layout of water, sanitary sewer and storm sewer facilities

with proposed points of interconnection to existing systems; and, the proposed storm water drainage system and its relation to existing systems.

- e. A generalized description of how the site is to be buffered from adjacent areas. This shall include the retention of existing trees as well as new plantings to accomplish this objective.
- f. A description of the manner in which areas that are not proposed to become publicly owned are to be maintained, including but not limited to open space, streets and lighting.
- g. If the development is expected to be phased, a general description of the phasing plan, including the anticipated timeframes for development.
- h. A description of any covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
- i. A written statement by the applicant setting forth the reasons why, in his opinion, the proposed rezoning would be advantageous to and in the best interests of the Town of Shelby.
- j. An Environmental Assessment Form (EAF) or a Generic Draft Environmental Impact Statement (DEIS) to comply with the State Environmental Quality Review Act (SEQR).
- k. Any other information or documentation which the applicant deems necessary to support his application.

2. Planning Board Report

Within sixty (60) days of the receipt of a complete application, the Planning Board shall review the concept plan and supporting documents and provide a written report to the Town Board. The Planning Board shall hold a public hearing on the concept plan to assist it in the preparation of its report. If no report has been rendered within the sixty (60) day period, unless such time limit has been extended by formal action of the Planning Board, the applicant may proceed on the basis that the report is favorable. The Town Board shall be so informed on this matter.

- a. A favorable report from the Planning Board shall be based on the following findings which shall be included as part of the report:
 - i) The proposal implements the goals and policies of the Comprehensive Plan of the Town of Shelby.
 - ii) The concept plan meets all of the requirements of this Local Law.
 - iii) The proposal is conceptually sound in that it meets a community need and conforms to accepted design standards for the proposed roadway system, land use configuration, open space and drainage systems.

- iv) Adequate services and utilities are available or proposed to be made available in order to properly serve the proposed development.
 - b. An unfavorable report shall state clearly the reasons therefore and, if appropriate, point out to the applicant the conditions under which a favorable report may be issued.
3. Town Board Consideration

Upon receipt of a report from the Planning Board, the Town Board shall consider the application for the Planned Development and may establish a date for and conduct a public hearing for the site plan as provided by Town Law.

4. Final Site Plan Approval

In the approval of the Site Plan, the Town Board may establish a maximum aggregate gross floor area for all buildings in the District and may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its resolution additional requirements for the applicant to meet. Such requirements may include, but shall not be limited to: visual and acoustical screening; the order of construction and/or occupancy; vehicular and pedestrian circulation systems; protection of natural resources; and, other physical or community needs.

ARTICLE VI: REGULATIONS APPLICABLE TO ALL ZONING DISTRICTS

SECTION 600 SIGNS

A. PURPOSE

The purpose of these sign regulations is to promote and protect the public health, welfare and safety by regulating existing and proposed advertising signs and signs of all types. It is intended to protect the property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space and curb the deterioration of the community's appearance and attractiveness.

These sign regulations are also intended to promote attractive signs which clearly present the visual message in a manner that is compatible with its surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.

B. GENERAL REGULATIONS

1. General advertising signs related to the permitted use of the premises are allowed, as well as secondary advertisement of products or services.
2. Off premises signs unrelated to the use are allowed as long as permission of the property owner is obtained.
3. The total number of permitted signs on a single lot shall not exceed two (2), of which only one (1) may be freestanding.
4. The total cumulative area of all signs permitted on a lot shall not exceed: the greater of thirty-two (32) square feet or an amount calculated at the rate of one (1) square foot of sign area per lineal foot of building frontage, plus one (1) square foot of sign area for every four (4) lineal feet setback of the principal building on the property, but in no such case shall the total sign area allowed exceed sixty-four (64) square feet.

C. PERMIT PROCEDURES

Except as otherwise provided, no person shall erect, alter, or relocate any sign without first obtaining a sign permit from the Town of Shelby.

1. Application Procedure

Applications shall be made in writing to the Zoning Enforcement Officer or the Town Clerk on forms prescribed and provided by the Town of Shelby, and shall contain the following information:

- a. Name, address and telephone number of:
 - (i) Applicant
 - (ii) Owner of the property
- b. Location of the building, structure or land upon which the sign now exists or is to be erected.
- c. If a new sign is to be erected, elevation and plan drawings to scale should be included. In addition, a full description of the placement and appearance of the proposed sign should be included and should cover the following:
 - (i) Type of sign
 - (ii) Location on the premises, specifically its position in relation to adjacent buildings, structure and property line.
 - (iii) The method of illumination, if any, and the position of lighting or other extraneous devices.
 - (iv) Graphic design, including symbols, letters, materials and colors.
 - (v) The visual message, text, copy or content of the sign.
 - (vi) Written consent, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.

2. Site Plan Review

Upon the filing of a completed application for a sign permit and the payment of the required fee, the Planning Board shall examine the plans, specifications and other data submitted and the premises on which the sign is to be erected or now exists. If the sign is in compliance with all the guidelines and requirements of this Local Law the Planning Board shall, within 45 days, direct the Zoning Enforcement Officer to issue a permit for the erection of the proposed sign or for an existing sign. The issuance of a permit shall not excuse the applicant from conforming to the other laws and ordinances of the Town or with the Codes of New York State. If the

erection of the sign authorized under any such permit has not commenced within six (6) months from the date of issuance, the permit shall become null and void.

D. EXEMPT SIGNS THAT REQUIRE NO PERMIT

The following types of signs may be erected and maintained without permits or fees, provided that such signs comply with the general requirements of this Section:

1. Historical markers, tablets and statues, memorial signs and plaques; name of buildings and dates of erection when cut into masonry surface or when constructed of bronze, stainless steel or similar material; and emblems installed by government agencies, religious or non-profit organizations. Such signs shall not exceed six (6) square feet.
2. Flags and insignia of any government, except when displayed in connection with commercial promotion.
3. On-premises directional signs not exceeding four (4) square feet per face and six (6) feet in height. Business and personal names shall be allowed, excluding advertising messages.
4. Non-illuminated warning, private drive, posted or no trespassing signs not exceeding two (2) square feet per face.
5. Temporary non-illuminated "for sale," "for rent," real estate signs and signs of similar name, concerning the premises on which the sign is located, not exceeding sixteen (16) square feet per side. All such signs shall be removed within seven (7) days after the sale, lease or rental of the property.
6. Private-owner merchandise sale signs for garage sales and auctions, not exceeding four (4) square feet in area per side.
7. One (1) temporary sign for a roadside stand selling produce grown on the premises in season, provided that such sign not exceed twenty-four (24) square feet and not be set on the public right-of-way.
8. Temporary non-illuminated window signs and posters not exceeding twenty-five percent (25%) of the window surface.
9. One (1) sign, not exceeding sixteen (16) square feet, listing the architect, engineer, contractor and/or owner on premises where construction, renovation or repair is in progress. All such signs shall be removed within 30 days following completion of the construction or repair.
10. "Non-commercial speech" signs, also known as "free speech" signs, which express an opinion or a statement unrelated to a business venture, are allowed without a permit subject to the following conditions:
 - a. The maximum number of non-commercial speech signs per lot shall be two (2)

- b. Such signs shall not exceed a total of twenty (20) square feet in area for all signs on a single lot.
 - c. Freestanding non-commercial speech signs shall not exceed six (6) feet in height above grade level.
 - d. Non-commercial speech signs shall not be illuminated, except indirectly.
 - e. Political candidacy signs shall be removed within seven days following the election.
11. Temporary illuminated or non-illuminated signs, posters, banners or other similar devices erected by not-for-profit community organizations to advertise suppers, banquets, benefits, fund raising events and similar functions, and directional signs for meetings, conventions and other assemblies may be erected without a permit for a period not to exceed 40 days.
12. Holiday decorations, including lighting, are exempt for the provisions of this Local Law and may be displayed in any district without a permit.
13. Integral graphics or attached price signs on fuel pumps at gas stations.

E. PROHIBITED SIGNS

- 1. No sign shall be illuminated by or contain flashing intermittent, rotating or moving lights except to show time and temperature.
- 2. No sign shall create a traffic hazard or impair or cause confusion or unduly distract motorists or pedestrians traffic in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within twenty-five (25) feet of the intersection of the street or highway lines.
- 3. No sign shall be attached to a public utility pole or traffic control structures nor reduce the effectiveness of traffic control devices and signs needed to direct the public.
- 4. No sign or sign supports shall be placed on the roof of any building.
- 5. No sign shall consist of banner, pennants, ribbons, streamers, spinners or similar fluttering or revolving devices.

F. EXISTING SIGNS

All existing signs that are legal at the time of the enactment of this Local Law shall be allowed to remain as long as they are properly maintained and their use remains current. Replacement of any existing sign for any cause shall be in accordance with the more restrictive requirements of this Local Law.

G. ABANDONED SIGNS

Except as otherwise provided in this Local Law, any sign which is located on property which becomes vacant and unoccupied for a period of six (6) months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of twelve (12) months or more.

An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises. Failure to remove an abandoned sign shall be a violation of this Local Law. The reuse of an abandoned, non-conforming sign, shall be prohibited unless said sign is modified in such a way to bring it into compliance with this Local Law.

H. MAINTENANCE OF SIGNS

Every sign shall, at all times, be in a safe and structurally sound condition and maintained by replacement of defective or worn parts, painting, repainting and cleaning. The Zoning Enforcement Officer shall require compliance with all standards of this Local Law. If a sign does not comply with adequate safety standards, it shall be removed.

I. DANGEROUS OR HAZARDOUS SIGNS

No person shall maintain or permit to be maintained on any premises owned, occupied or controlled by him any sign which is either not structurally sound or creates an electrical hazard. Any such sign shall be removed or repaired by the owner or user of the sign or the owner of the premises.

J. CONSTRUCTION STANDARDS

1. All internally illuminated signs shall be constructed in conformance with the Standards for Electric Signs (UL48) of Underwriters' Laboratories, Inc., or an equivalent standard, and bear the seal of Underwriters' Laboratories, Inc., or another acceptable service.
2. If such sign does not bear the Underwriters' Laboratories, Inc. label, the sign shall be inspected and certified by the New York Board of Fire Underwriters. All transformers, wires and similar items shall be concealed. All wiring to freestanding signs shall be underground.
3. All freestanding signs shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of surface area.
4. All signs, including wall-mounted and projecting signs, shall be securely anchored, free from all hazards and employ acceptable safety materials.

K. SPECIFIC REGULATIONS OF SIGN TYPES

The following are descriptions of signs varying in construction and type which shall comply with the additional conditions set forth herein:

1. Wall Signs

- a. Wall signs shall not extend beyond the ends or over the top of the walls to which attached and shall not extend above the level of the second floor of the building.
- b. Wall signs shall not extend more than nine (9) inches from the face of the buildings to which attached except that copy-change signs may extend fifteen (15) inches therefrom.

b. Projecting Signs

- a. Projecting signs shall not have more than two (2) faces.
- b. The exterior edge of a projecting sign shall extend not more than five (5) feet from the building face or one-third (1/3) the width of the sidewalk, whichever is less.
- c. No part of a projecting sign shall extend into vehicular traffic areas, and any part extending over pedestrian areas shall have a minimum clearance of eight (8) feet.
- d. Projecting signs shall not extend above the level of the second floor of the buildings to which attached or in any case be higher than twelve (12) feet.
- e. No projecting sign shall be closer than fifteen (15) feet to the corner of a building located at a street intersection.

3. Freestanding Signs

- a. No freestanding sign shall be located less than (10) feet from a side or rear lot line nor closer than 25 feet from the edge of the pavement or main traveled portion of the road or street bordering the lot. No sign shall obstruct the view or constitute a safety hazard.
- b. If, for any reason, the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within ninety (90) days to conform to the minimum setback requirements.
- c. Except as otherwise provided herein, no freestanding sign shall be more than thirty-two (32) square feet per side for a double-faced sign.
- d. No freestanding sign shall be more than thirty (30) feet in height above finished grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures.

- e. No freestanding sign shall extend over or into the public right-of-way nor shall it overhang the property lines.
- f. Freestanding signs under which a pedestrian walkway or driveway passes shall have a ten-foot vertical clearance.
- g. Masonry wall-type signs shall not exceed four (4) feet in height and shall not be placed so as to impair visibility for motorists.

4. Awning signs

- a. No sign shall project from an awning.
- b. Awning graphics may be painted or affixed flat to the surface of the front or sides and shall indicate only the name and/or address of the enterprise or premises.

L. DESIGN GUIDELINES

The purpose of this section is to encourage appropriate and compatible graphic design, material, colors, illumination and placement of proposed signs.

- 1. Signs shall be informative, enhance the rural character of the community, and shall be consistent with the Western Orleans Comprehensive Plan. Signs should be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings on which they are placed. Sign panels and graphics should relate with and not cover architectural features and should be in proportion to them.
- 2. Signs that are manufactured from plastic, wood, or wood simulated products, or stone, wood or stone simulated products (with the appearance of natural wood or stone) may be considered as in compliance with this Local Law. Illuminated plastic signs are permitted only in the General Business, Industrial and Hamlet Districts.
- 3. Signs should be appropriate to the types of activities they represent.
- 4. Layout should be orderly and graphics should be of simple shape, such as rectangle, circle or oval.
- 5. No more than two (2) typefaces should be used on anyone (1) sign or group of signs indicating one (1) message.
- 6. The number of colors used should be the minimum consistent with the design.
- 7. Illumination should be appropriate to the character of the sign and surroundings.
- 8. Groups of related signs should express uniformity and create a sense of harmonious appearance.

9. Brand name sponsored signs are permitted, provided that the brand name, logo, trademark (or the combination thereof) shall not exceed 25% of the square footage of the sign.

SECTION 601 PARKING

A. Design Requirements

This section is designed to reduce problems caused by inadequate or poorly designed parking facilities.

4. All uses shall provide adequate off-street parking for all vehicles parked during typical peak periods. Parking should be designed to eliminate the need to back out or to park on the shoulder of public roads.
5. Violation is constituted by an observed overload of parking on to off-site area neighboring property or road right-of-ways more than three times in any one month.
6. A parking space shall be not less than ten by twenty (10 x 20) feet, exclusive of accessways and driveways. Single family residences need not exclude driveway area.
7. Off-street parking areas for non-residential uses shall provide access lanes to parking spaces. Parking areas for 50 or more vehicles shall delineate fire lanes and include no parking markers.
5. Any off-street parking area with at least 20 off-street parking spaces shall designate a minimum of five percent (5%) of those spaces, up to a maximum of 10 spaces, as only for the handicapped and clearly mark them for such use. Parking spaces designated to serve handicapped individuals shall be at least 14 feet in width and 20 feet in depth or otherwise comply with the standards of the Americans with Disabilities Act (ADA.)

B. Minimum parking standards

For all developments, the parking standards in Table 1 shall be used as a guideline. Alternatives to the minimum number of parking spaces shall be accepted by the Planning Board during Site Plan Review if the applicant demonstrates that such standards better reflect the anticipated needs of the facility.

TABLE 1 OFF-STREET PARKING

Use	Minimum Required Off-Street Parking Spaces
One or two family dwelling	2 per dwelling unit
Multi family dwellings	2 for each dwelling unit
Churches, synagogues, and houses of worship	1 per 5 seats
Community buildings, used in connection with the operation of clubs, social halls, lodges, fraternal organizations, and similar uses	1 per 200 sq. ft. GFA
Home business	2 for each dwelling unit plus the number of spaces required for the proposed business
Hotel, motel, inn or rooming house	1 per rentable unit, plus 1 per 100 sq. ft. non-room GFA
Funeral home or mortuary	1 per 100 sq. ft. GFA
Garage or automobile repair shop	4 per bay or work area
Restaurant or other eating place	1 per 3 seats
Fast food restaurant	1 per 30 sq. ft. GFA
Retail or service business	1 per 300 sq. ft. GFA
Warehouse, distribution or other storage or wholesale building	1 per 5000 sq. ft. GFA
Bowling alley	4 per alley
Nursing home or hospital	1 per 2 beds
Medical offices or clinic	1 per 800 sq. ft. GFA
Manufacturing, assembly, research and other industrial uses	1 per 800 sq. ft. GFA
Offices	1 per 250 sq. ft. GFA
Bank or other financial institution	1 per 300 sq. ft. GFA
Theater	1 per 4 seats
Animal clinic/hospital/ kennels	1 per 200 sq. ft. GFA

GFA: Gross Floor Area

SECTION 602 OFF-STREET LOADING

- A. At least one off-street loading area shall be provided for each commercial or industrial establishment hereafter erected or altered to have a gross floor area in excess of 5,000 square feet.
- B. Space for off-street loading shall be in addition to space for off-street parking.

SECTION 603 ACCESS CONTROL

In order to encourage the sound development of street frontage, the following special regulations shall apply to all non-residential buildings and uses:

- A. Each separate use, grouping of attached buildings or groupings of permitted uses shall not have more than two (2) points of access.
- B. The use of common access points by two or more permitted uses shall be encouraged by the Town Board in order to reduce the number and closeness of access points along the streets and to encourage the fronting of significant traffic generating uses upon a parallel access street and not directly upon a primary road.
- C. Access points for industrial uses shall not be less than 24 feet nor more than 40 feet in width. All other access points for non-residential uses shall not be less than 20 feet nor more than 30 feet in width.
- D. All accessways shall meet the applicable standards and requirements of the New York State Department of Transportation, Orleans County Highway Department, and Town of Shelby Highway Superintendent.
- E. No driveway providing access to an off-street parking area shall be located within 20 feet of any side lot line, or within 50 feet of a street intersection measured along the curb line of the same street on which the driveway is located. In addition, a minimum distance of 50 feet shall be maintained between two driveways located on any one frontage.

SECTION 610 FENCES

Fences erected in the Town shall adhere to the following unless otherwise specified in this Local Law.

- A. A building permit is required, showing the location of the fencing, screening or buffering on a tape map or other map drawn to scale, and describing the dimensions and material of which the fencing, screening or buffering is to be constructed. The site plan should also show boundary lines and relationship of fencing to these boundaries and other structures.

- B. The following materials are authorized to be used for fencing, screening and buffering:
 - 1. Woods
 - 2. Chain links
 - 3. Other metals, wrought iron, aluminum
 - 4. Bricks and stone
 - 5. plastic or vinyl clad
- C. Fences may be erected, altered or reconstructed to a maximum height of four (4) feet in the front yard (in front of the front building line) and six (6) foot maximum in the side and rear yards, for residential uses in the Hamlet, Rural Residential and Waterfront Residential districts and ten (10) foot maximum for all non-residential uses and for residential uses in all other districts.
- D. The height shall be measured from the ground to the top of the fence.
- E. No fence shall cause obstruction of vision at street intersections.
- F. Fences may be substituted for lot line landscaping during Site Plan Review, at the discretion of the Planning Board.
- G. Farm fencing shall be exempt from these provisions.
- H. Any fence erected along a lot line shall be erected wholly on the property of the owner and neither the fence itself nor any supporting accessory components thereof shall encroach upon the adjoining properties.
- I. A finished side of any fencing shall front the neighboring properties.
- J. All fences shall be adequately maintained.

SECTION 612 RESTRICTIONS ON USE OF TRAILERS

No trailer, manufactured home or recreational vehicle may be used for any purpose, including storage, unless such trailer, manufactured home or recreational vehicle is either registered and inspected for use on a public highway or approved for use as a dwelling.

SECTION 615 CLEAR VIEW OF INTERSECTING STREETS

No obstruction to view, except buildings and structures existing at the time of the existence of this Local Law, shall be maintained on the premises within a triangle formed by the intersecting highways so as to interfere with a view of traffic approaching such intersection within a distance of 65 feet measured along the lot lines of the lot and the intersecting highways.

SECTION 619 REQUIREMENTS FOR DWELLINGS

- A. All single family dwellings shall have a gross habitable floor area of not less than 900 square feet. Manufactured homes in approved manufactured home parks are exempt from this requirement.
- B. All dwellings must have a concrete or masonry foundation that extends at least 42" inches below ground level.
- C. Any dwelling that does not have an attic or basement for storage must have a storage shed or garage on the lot. Such storage shed will provide necessary storage space to compensate for lack of attic and basement, and shall have a minimum of 120 square feet and be anchored to a cement foundation.
- D. No cellar sited independently of a structure shall be used exclusively as a dwelling.
- E. The minimum width of a dwelling, at it narrowest dimension, not including porches or patios, shall be twenty (20) feet, except that manufactured homes in approved manufactured home parks shall have a minimum width of 14 feet. The width requirement shall not be met by joining together, in any fashion, two or more manufactured homes.
- F. The exterior siding shall consist of vinyl or aluminum lap siding, wood, masonite, or other materials similar to the exterior siding commonly used in standard residential construction.
- G. The construction and installation of all structures, including seasonal dwellings, manufactured homes and appurtenant utilities shall conform to provisions of the Codes of New York State and all other applicable standards.

SECTION 620 INDIVIDUAL MANUFACTURED HOMES

- A. Intent

It is hereby recognized that manufactured homes are accepted housing by many individuals. It is also recognized that standards enacted at the Federal and State levels have caused newer units to be safe, energy efficient, fire retardant structures.

- B. The following standards shall apply to all Manufactured Homes installed, established or placed in the Town whether located on an individual building lot or in a Manufactured Home Park or in a Farm Labor Camp. These standards shall apply in addition to the requirements of Section 619 (Requirements for all dwellings).
 - 1. Single-Wide Manufactured Homes hereafter installed, established or placed in the Town shall be located in a duly permitted and licensed Manufactured Home Park or Farm Labor Camp.

2. Manufactured homes are subject to all applicable portions of this Local Law pertaining to single family dwellings.
3. Manufactured homes shall not be used for any other purpose than residence.
4. Manufacturer's Instructions which include installation criteria shall be included with the building permit application or be made available for inspection during installation. The Zoning Enforcement Officer shall verify that the manufacturer's installation instructions were followed before an Occupancy Certificate is issued.

C. Replacement of non-conforming manufactured homes

Any existing Single Wide Manufactured Home which is located on a lot not within an existing Manufactured Home park or Farm Labor camp, as of the date of the enactment of this amendment, may remain in its present location so long as the Single Wide Manufactured Home is not removed from its current location. The provisions of Section 640 (Non-conforming Uses, Lots, and Structures) of this Local Law shall govern when and under what circumstances the non-conforming use status of said lot and home thereon shall terminate.

SECTION 625 CAMPING UNIT/ RECREATIONAL VEHICLES

- A. Camping units or recreational vehicles shall not be occupied on an overnight basis, except at an approved camping ground, or on improved property with the consent of the owner.
- B. Seasonal use RV campers that are so located on improved property may be occupied on a seasonal basis from May 1 - September 30
- C. For the purposes of this section improved property shall be land (lot) upon which there is a dwelling that conforms to the articles of this Local Law.
- D. No more than two (2) Camping Units or recreational vehicles may be parked on any property at the same time for periods in excess of 7 days per month.
- E. All camping units are to be placed on the side or rear of improved property.
- F. Placement of camping units must be in accordance with the setbacks required for buildings in the respective zone of the property.
- G. The camping unit must either have self contained sanitation system or be connected to adequate sanitation facilities.

SECTION 630 STATE ENVIRONMENTAL QUALITY REVIEW

- A. The State Environmental Quality Review Act requires that local government examine the environmental impact of all actions they permit, fund, or construct.

- B. All "Type I" actions (NYCRR Part 617) shall require the submission and review of an Environmental Assessment Form.
- C. For zoning action reviewed by the Town, the following bodies shall be lead agency, unless otherwise delegated by the Town Board.
 - Zoning Text Amendments - Town Board
 - Zoning District Amendments -Town Board
 - Special Permits - Planning Board
 - Site Plan Review - Planning Board
 - Variance - Zoning Board of Appeals
- D. 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 a Draft Environmental Impact Statement. Review, notice and action on the EIS shall be conducted according to Part 617.

SECTION 640 NON-CONFORMING USES, LOTS AND STRUCTURES

Lots, structures, uses of land, and characteristics of uses which lawfully existed at the time of the enactment of this Local Law and which would be prohibited or restricted under the terms of these regulations may be continued subject to the following provisions:

A. Intent

It is the intent of this Local Law to permit non-conforming uses to continue until they are removed, but not to encourage their survival.

- B. Enlargement - No non-conforming uses shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of this Local Law.
- C. Unsafe Structures - Any structure or portions thereto declared unsafe by a proper authority may be restored to a safe condition, subject to applicable state and local laws and regulations.
- D. Alterations - A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost 50% of the assessed value of the structure, as adjusted to full value, based upon the State Board of Equalization and Assessment rates of said structure, unless the structure shall be changed to a conforming use.
- E. Restoration - No non-conforming structure damaged by fire or other causes to the extent of more than 50% of its assessed value of the structure, as adjusted to full value based upon the State Board of Equalization and Assessment rates, shall be repaired or rebuilt, except in conformity with the requirements of these regulations.
- F. Discontinuance - Whenever a non-conforming use has been discontinued for a period of one year, use shall not thereafter be re-established and any future use shall be in conformity with the provisions of this Local Law.

- G. Changes – Once changed to a conforming use, no structure or land so changed shall be permitted to revert to a non-conforming use.
- H. Moving – Should any structure be moved for any reason for any distance, it shall thereafter conform to the requirements for the district in which it is located after it is moved.
- I. Existing Undersized Lots of Record - Undeveloped
 - 1. Any record lot held in single and separate ownership prior to the adoption of this Local Law and whose area /or width and/or depth are less than minimum requirements specified herein for the district may be considered as complying with this Local Law and no variance therefore shall be required, provided that:
 - a. Such lots do not adjoining any other lot or lots held by the same owner, the aggregate area of which lots is equal to or greater than the minimum lot area required for the district.
 - b. Provided that the minimum dimensions of such non-conforming lot is at least **100 feet wide and 150 feet deep.**
 - c. In any district where residences are permitted, such undersized non-conforming lots may be used for not more than one single family dwelling.
 - d. A lot of non-conforming size may be subdivided if each and every subdivision of such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's property
 - 2. Any developed lot with a dwelling in the (WR) district held in a single and separate ownership prior to the adoption of this Local Law and whose area or width and or depth are less than minimum requirements specified herein for the district may be considered as complying with this Local Law and no variance therefore shall be required, provided that:
 - a. The minimum lot width is 40 feet and has a total area of at least 4000 square feet.
 - b. The side set backs for the dwelling are 10 feet and in the (WR) district the set back from the mean high water mark shall not be decreased on any new construction ,replacement of or remodeling of any existing dwelling if this distance is less than 75 feet..
 - c. The set back for all structures from a private lane is 20 feet.
 - d. The side set back for accessory structure or detached deck of less than 2 feet high is 5 feet.

SECTION 641 CORNER AND THROUGH LOTS

On corner lots and through lots the sides facing both streets shall be considered front yards. The other (2) sides shall be considered side yards.

SECTION 650 PINBALL AND VIDEO GAME ARCADES

- A. Arcades shall be closed between the hours of 12:00 midnight and 8:00 a.m.
- B. No one under the age of sixteen (16) shall be permitted in an arcade while school is in session.
- C. An owner or responsible person over the age of eighteen (18) shall be on the premises during all hours of operations.
- D. All video display screens shall be visible to the public from the entryway to the room or building and/or from large windows situated for easy viewing from the outside of the building.
- E. No cubicles, booths or partitions shall be constructed or erected so as to reduce the visibility or accessibility to display screens of pinball and video games.

SECTION 652 TEMPORARY SPECIAL EVENTS

- A. Purpose and Intent: The purpose and intent of this Section is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Section to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use. Finally, it is the intent of this Section to preserve the public health, safety and convenience.
- B. Special Event Defined: The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these Regulations, for one or more of the following types of activities:
 - 1. Type 1. Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
 - 2. Type 2. Temporary banners attached to the wall of a building or placed across street rights-of-way.
 - 3. Type 3. Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.

4. Type 4. Commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration.
5. Type 5. Public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades; or large private events such as film production. In addition, the temporary placement of a portable asphalt plant during construction work on any public road when such placement is not adjacent to said construction but will be placed within 1 and 1/4 miles of said construction.

The term "special event" shall not include amusement enterprises, garage sales at an individual residence, transient merchants, or off-site promotional signs.

C. **Special Events Not Requiring a Permit:** Special events meeting the Type 1 definition are allowed without a Special Event Permit, provided all of the following performance standards are met:

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any structure use in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid zoning certificate, and shall be promptly removed upon cessation of the event.
3. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four (4) days, and to a maximum frequency for similar events of two (2) times per calendar year.

D. **Special Events Subject to an Administrative Permit:** Special events meeting the following standards may be issued a Special Event Permit administratively by the Zoning Enforcement Officer. In administering the provisions of this section, the Zoning Enforcement Officer shall be guided by applicable County policies as adopted by the Town Board. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Town Board.

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Enforcement Officer, provided that all of the following performance standards are met:
 - a. An application is made and a fee paid in accordance with Section 652.F.
 - b. No more than one banner will be displayed when attached to the wall of a building.
 - c. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
 - d. The banner will be displayed for a maximum duration of fifteen (15) days per permit.

2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 652.C., may be permitted administratively by the Zoning Enforcement Officer subject to the prior review and approval of special arrangements for traffic and crowd control by the Sheriff, Fire Chief of the appropriate Fire District, and Town Highway Superintendent. No such administrative permit shall be issued unless all of the following performance standards are met:
 - a. An application is made and a fee paid in accordance with Section 652. F.
 - b. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
 - c. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
 - d. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
 - e. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
 - f. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
 - g. The special event shall be conducted on private property where the property owner has granted the appropriate permission.
 - h. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed ten (10) days.
- E. Special Events Subject to Town Board Approval: Any special event not meeting the criteria of Sections 652.C. or D. may be granted a Special Event Permit by the Town Board. Such permit may be subject to such conditions and safe guards as the Town Board may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:
1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
 2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Town Board expectations.

3. The provision of traffic control or security personnel to increase the public safety and convenience.
4. Obtaining liability and personal injury insurance in such form and amount as the Town Board may find necessary to protect the safety and general welfare of the community.

F. Application and Fee:

1. No Special Event Permit shall be issued until an application has been submitted to the Zoning Enforcement Officer and the appropriate fee paid. The application shall be made on forms provided by the Zoning Enforcement Officer, and shall be accompanied by the following items as applicable:
 - a. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
 - b. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
 - c. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
2. Each application for a Special Event Permit shall be accompanied by an application fee, except that such fee shall be waived for any applicant registered with the State of New York as a nonprofit organization. The fees shall be as established by the Town Board by separate resolution.
3. The Special Event Permit shall be posted on the site for the duration of the event.

SECTION 660 ALTERNATIVE ENERGY SYSTEMS

This section is intended to reduce impacts on neighboring property owners and health and safety problems which may accompany alternate energy systems.

- A. All wind energy towers shall be located so as to allow an open zone around the tower on the owner's property with a radius at least equal to the height of the tower.
- B. All energy collection/storage facilities and appurtenant electrical equipment shall cause no undue interference or noise, or glare.
- C. Windmill blades shall clear the ground at their lowest point by at least twenty (20) feet.
- D. Height Exemption: The height limitations of this Local Law shall not apply to wind energy towers or solar collectors provided that such structures are erected only to such height as is necessary to accomplish the purpose for which they are intended, and that such structures do not obstruct solar access to neighboring properties.

SECTION 670 HABITATION

All residential habitation shall be in residential dwellings as defined in this Local Law.

SECTION 675 REFUSE CONTAINERS

Commercial refuse containers shall be used for commercial waste disposal.

SECTION 680 SWIMMING POOLS

Swimming pools may be installed only as accessory structures to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests. No swimming pool shall be installed or maintained unless:

- A. Such pools are installed in the rear or side yard of the premises, unless hardship is shown. No swimming pool shall be closer to the street or front lot line than the front of the building or structure to which the pool is an accessory use.
- B. The setbacks from the side and rear lot lines shall be at least 15 feet.
- C. Anything in this Local Law to the contrary notwithstanding, for inground pools, there shall be erected and maintained a good quality fence to be a minimum of four feet in height, enclosing the entire portion of the premises upon which such pool shall be installed and entirely surrounding the area in which such pool is located.
- D. Fences and gates shall be required, pursuant to the requirements of the Codes of New York State. Every gate or other opening in the fence enclosing any pool, except an opening through the dwelling or other main building of the premises, shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool.
- E. No permit shall be issued for such pool unless the applicant can show that the proposed drainage of such pool is adequate and will not interfere with the property of others, with public highways or area drainage facilities.
- F. No permit shall be issued for such pool unless the applicant can demonstrate that there is sufficient water supply to accommodate such pool without detriment to normal water consumption requirements and that all proposed water connections are proper and adequate.
- G. Zoning permits shall be required for all swimming pools having an area greater than 100 square feet or a depth greater than 18 inches regardless of whether the pool is above or below ground.
- H. This section does not apply to farm ponds or other natural or artificial made bodies of water located in on residential areas.

SECTION 682 UTILITY SHEDS

Utility sheds having exterior dimensions of 10 feet by 12 feet or less do not have to meet the set-back requirements provided in this Local Law and may be erected no less than five (5) feet of the property line upon inspection and approval of the Zoning Enforcement Officer. Such sheds do not require a cement or wood base, but must be anchored to the satisfaction of the Zoning Enforcement Officer to mitigate against wind damage. Utility sheds having dimensions larger than 10 feet by 12 feet require the issuance of a standard building permit and must comply with all of the provisions of this Local Law and all other local laws and statutory provisions.

SECTION 695 HOME OCCUPATIONS

- A. No person other than a member of the immediate family occupying such dwelling shall be employed full time as part of the home occupation.
- B. The home occupation shall not require client or customer visits to the residence.
- C. A Home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in an accessory building thereto which is normally associated with a residential use.
- D. No more than 25 percent of the gross floor area of such residence shall be used for the conduct of a home occupation.

The entire floor area of an accessory structure may be used for a home occupation (except garages.)

- E. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character whether by the use of colors, materials, construction, lighting or the emission of sounds, noises, or vibrations.
- F. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit or machinery or equipment which is essential in the conduct of the home occupation.
- G. There shall be no outdoor storage or display of materials, goods, supplies or equipment related to the operation of the home occupation.
- H. There shall be no use of utilities or community facilities beyond that normal to the use of the property for residential purposes.
- I. One nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed one (1) square foot in area and shall be attached to the structure.

- J. Only one (1) commercial vehicle, as defined herein, may be used in connection with home occupation.
- K. No use shall create noise dust, vibration, smell, smoke glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- L. Any home occupation that exceeds the thresholds established in this Section shall require a special permit for a home business (See Section 740).

SECTION 696 STRIPPING OF TOPSOIL

- A. No person, firm or corporation shall strip, excavate or otherwise remove top soil for sale or other use other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill shall be seeded to provide an effective cover crop within the first growing season following the start of said operation.
- B. Any removal of topsoil shall comply with all applicable regulations regarding erosion control and stormwater management.

SECTION 697 FARM ANIMALS

- A. The keeping of farm animals within the General Business (GB) or Rural Residential (RR) Districts must comply with the following conditions:
 - 1. Fences - Farm animals shall be fenced so as not to be able to come within 50 feet of adjacent residential structures nor within 10 feet of any boundary line.
 - 2. No structure housing such animals shall be located closer than fifty (50) feet to any street or property line.
 - 3. Pre-existing Animals - Farm animals maintained on a property at the time of enactment of this Local Law, in excess of the number allowed in this Section, may continue to be allowed, provided that the occupant of the property registers the total number and type of animal with the Zoning Enforcement Officer within 30 days of the enactment of this Local Law.
 - 4. No stable, similar animal housing or confining areas shall be allowed on lots of less than five (5) acres.
 - 5. Not more than one (1) adult or fully grown horse, cow, beef cattle, sheep, goat or other four-legged domestic-type farm animal, or combinations thereof, may be kept per acre of land in the residential parcel.

6. Not more than a total of any combination of twelve (12) adult or fully grown chickens, ducks, geese or other fowl or birds of any type may be kept per acre of land in the residential parcel.
 7. No unenclosed storage area for manure or other materials creating dust or odor shall be permitted within 100 feet of any street or residential property line, nor within 100 feet of a stream or other water body or well providing a source of potable water. In no case shall a pasture be considered an unenclosed storage area for manure, nor shall a pasture be required to be set back 100 feet from any residential property line, street or water body. Any building occupied or structure used for the storage of manure or other materials creating dust or odor shall be located a minimum of 60 feet from all lot lines. Manure storage facilities shall be constructed a minimum of 120 feet from any residential building.
 8. Site plan review by the Planning Board shall be required for manure storage facilities or for any structure that is not completely enclosed that is used primarily for the storage of liquid agricultural or food processing wastes.
- B. The keeping of farm animals as an accessory use to a residence within the Agricultural/ Residential (AR) or Waterfront Development (WD) Districts must comply with the following conditions:
- a. No stable, similar animal housing or confining areas shall be allowed on lots of less than two (2) acres.
 - b. No structure housing such animals shall be located closer than fifty (50) feet to any street or property line.
 - c. Not more than one (1) adult or fully grown horse, cow, beef cattle, sheep, goat or other four-legged domestic-type farm animal, or combinations thereof, may be kept per acre of land in the residential parcel.
 - d. Not more than a total of any combination of twelve (12) adult or fully grown chickens, ducks, geese or other fowl or birds of any type may be kept per acre of land in the residential parcel.
- C. The keeping of farm animals shall not be permitted in the Hamlet (HA) or Waterfront Residential (WR) Districts.
- D. Farm animals maintained as part of a farm operation that is included within a County Agricultural District shall not be subject to the regulations of this Section.

SECTION 698 MANURE STORAGE FACILITIES

- A. Manure storage facilities, as defined herein, shall require Site Plan approval by the Planning Board and shall comply with the requirements of this Section.
- B. All manure storage facilities shall be designed in accordance with United States Department of Agriculture, Natural Resources Conservation Service Standards (NRCS).

- C. Manure storage facilities shall be designed to prevent animals and people from accidentally falling into and/or becoming trapped in any portion of said manure storage facility. In the case of ground level pits used as manure storage facilities, such facilities shall be surrounded by a minimum four foot high (4 ft.) fence. Said fence shall be of sufficient design to make the facility secure from small children.
- D. Site plan applications involving a Manure Storage Facility shall include the following:
 - 1. Either:
 - a. a letter from the Orleans County Soil and Water Conservation District stating the date of review of said plans and containing said District's recommendations concerning compliance of the plans with said NRCS standards; or
 - b. the seal of a Professional Engineer licensed to practice in New York State.
 - 2. Copies of soil boring logs and reports taken in the vicinity of the proposed manure storage facility, as designated appropriate by either the Orleans County Soil and Water Conservation District or a Professional Engineer licensed to practice in New York State.
 - 3. The results of a deep hole inspection of soil and groundwater conditions at the site of the proposed manure storage facility conducted by either the Orleans County Soil and Water Conservation District or a Professional Engineer licensed to practice in New York State.
 - 4. Complete design details of any structures to be built and materials to be used therein.
 - 5. A statement as to the type and number of animals expected to contribute waste to the facility, and the maximum number of animals said facility is capable of supporting.
 - 6. A statement as to the operation of the manure storage facility, such as the number of times per year residue is to be removed and where to, whether mechanical agitation or aeration is involved.

ARTICLE VII: SPECIAL PERMIT CRITERIA

SECTION 700 GENERAL PROVISIONS

The uses specified in this Article are hereby declared to possess unique characteristics requiring that each proposal for any such use shall be considered by the Town Planning Board as an individual case. Upon application, special use permits may be approved by the Town Planning Board and issued by the Zoning Enforcement Officer in accordance with the administrative procedures set forth in this Local Law and only after it has found that each and all of the following standards have been met:

- A. The proposed special use is consistent with the general intent of the Town's Comprehensive Plan and with each of the specific purposes set forth in this Local Law.
- B. The location, size and use of the structures involved, nature and intensity of the operations involved and size and layout of the site in relation to the proposed special use are such that it will be compatible with the orderly development of the zoning district.
- C. Operation of the proposed special use is no more objectionable to the uses of nearby properties, by reason of dust or smoke emission, noise, odors, fumes, pollution of air or water, including subsurface waters, unsightliness or similar conditions, than would be the operation of any permitted use.
- D. The proposed special use satisfies each and all standards and conditions specified for such special use by the relevant provisions of this Article.
- E. The Planning Board may impose additional conditions or restrictions as it may deem necessary prior to approving any special use permit application in order to protect public health and safety, the quality of the Town's natural resource base and the value of property.
- F. The Planning Board may waive certain requirements for special uses, provided that such waiver does not endanger public health, safety or welfare or compromise the character of the neighborhood.
- G. The Zoning Enforcement Officer shall make an on-site visit to each property authorized as a special use not less than one (1) time each year. The purpose of said site visit is to insure that the use is being operated in accord with the conditions specified by the Planning Board. If the Zoning Enforcement Officer shall determine that a violation of this Local Law or the conditions imposed by the Planning Board exists, the owner and, if applicable, operator of such special use shall be notified in writing of the violation. If such violation continues to exist fifteen (15) days following such notification, or if three violations occur within a consecutive twelve (12) month period, the Certificate of Occupancy and/or Certificate of Compliance shall be null and void. A new special use permit application shall be required to be submitted and approved prior to the re-establishment of said use.

- H. No site preparation or construction shall commence nor shall existing structures be occupied for any special permit use until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.

SECTION 701 AGRICULTURAL PROCESSING OR DISTRIBUTION FACILITY

The Planning Board may issue a special permit for an Agricultural Processing or Distribution Facility, as defined herein, in the AR District, provided that the following standards and requirements are maintained.

- A. A minimum lot area of ten (10) acres shall be required.
- B. Any structure located on the site shall be a minimum distance of 500 feet from any existing residence.
- C. All outdoor storage areas shall be suitably screened and indicated on the site plan.
- D. The applicant must demonstrate that adequate on-site parking is provided so vehicles waiting to load or unload will not park on public highways.
- E. Periodic inspections by the Zoning Officer shall be permitted by the applicant and/or owner.
- F. Hours of operation shall be demonstrated by the applicant to be limited as necessary to minimize impact on surrounding properties.
- G. The applicant shall submit a route plan to indicate that traffic generated by the facility will have a minimal impact on neighboring streets. Said plan shall state the number and frequency of trips to and from the facility.
- H. On-street parking of vehicles, containers or any other equipment or materials in any way connected with the facility shall be prohibited.
- I. The Planning Board may incorporate as a condition of issuance of any such permit any safeguards it deems necessary to protect the public health, safety and welfare.

SECTION 702 AIRPORTS

The Town Planning Board may approve a special use permit for private or commercial airports or airstrips in the AR Agricultural/ Residential District provided the following standards and provisions are maintained:

- A. An application for the establishment, construction, enlargement or alteration of an airport shall include, in addition to requirements for special use permits outlined in Article IX, the following statements and information:
 - 1. Name and address of the proponent.
 - 2. Classification of the proposed airport (commercial, non-commercial or restricted.)

3. Types of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.)
4. Number and type of aircraft expected to be based at the airport initially and within five years.
5. Whether an instrument approach procedure will be offered.
6. Statement as to the anticipated number of daily operations.
8. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
9. A copy of the New York State Commissioner of Transportation's determination that the airport is in compliance with the provisions of Section 249 of the New York State Business law.
10. A site plan of the airport which includes the following in addition to the requirements listed in Article X:
 - a) Scale no smaller than one inch equals one hundred feet (1" = 100').
 - b) Location of all existing and proposed structures.
 - c) Alignment of existing and/or proposed runways shown in their exact location.
 - d) Location of aircraft parking and tie-down areas.
 - e) Provision for vehicular access and off-street parking.
 - g) Provisions for sanitary waste disposal and water supply, if applicable.
 - f) Location and method of all fuel storage facilities.
10. An area map at a scale of no less than one inch equals five hundred feet (1" = 500') showing:
 - a) Distances to power lines, or other possible obstructions, within two thousand (2,000) feet of the ends of runways.
 - b) Properties and property owners within five hundred (500) feet

- B. The Planning Board may, at its discretion, exclude from the requirements of paragraph A.8. above, any private airport established, constructed or maintained by an individual on his property for his personal or hobby use; provided, however, that the following conditions are met:
1. The average number of hours that the airport is in use each week does not exceed twelve hours.
 2. The individual owns no more than three planes, none of which is designed to accommodate more than six persons, including the pilot.
 3. The airport is not utilized for any industrial or commercial purposes.
 4. The Planning Board may, at its discretion, require the applicant to submit proof that the requirements of Section 249 of the General Business Law are otherwise complied with, depending on the proximity of the proposed airport to highways and other airports.
- C. The Planning Board, in considering a request for a special use permit or the extension of a permit to operate an airstrip, may waive certain requirements or impose any additional conditions it deems necessary to protect the health, safety and public welfare of the Town.

SECTION 703 ANIMAL HOSPITAL AND VETERINARY CLINICS

The Planning Board may approve a special permit for an animal hospital in the AR Agricultural/ Residential District, or for an animal hospital with outdoor runs in the GB General Business District, provided that the following standards and provisions are maintained:

- A. All buildings, structures or other accessory uses shall be at least 25 feet from any side or rear property line and shall be set back so as to comply with the front yard requirements of the zone in which the facility is to be located.
- B. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.
- C. Lot coverage shall not exceed 25 percent.
- D. Entrance and exit points shall be from major or secondary roads only.
- E. Adequate parking shall be provided in accordance with the size of the facility.
- F. Adjacent properties shall be protected from noise, odors and unsightly appearance.
- G. Applicant must indicate on application for permit the method of waste disposal and dead animal disposal. Recommended: septic system with 1,000 gallon tank for waste disposal. The proposed method of disposal of waste and/ or dead animal carcasses shall be subject to review and approval by the Planning Board before any such method may be employed by any applicant.

- H. If the applicant proposes to board or keep animals on the premises for purposes other than recuperation from illness or surgical procedures, the requirements established for kennels in Section 747 of this Local Law (Special Permit criteria for Kennels) must be met.
- I. Any quarters for recuperating animals located on the premises shall be located inside a building that has been sound-proofed in accordance with the standards established by the American Animal Hospital Association Guidelines.

SECTION 705 BED AND BREAKFAST INN

The Planning Board may approve the use of a residential structure for a tourist home/bed and breakfast establishment in any district where residences are permitted, provided that the following standards and provisions are maintained:

- A. The building proposed for occupancy as a bed and breakfast establishment shall contain no more than four lodging rooms for hire.
- B. The operator of the bed and breakfast establishment shall reside on the premises.
- C. The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations.
- D. Outbuildings detached from the principal dwellings shall not be used for the purpose of a bed and breakfast establishment.
- E. A minimum of one (1) off-street parking space shall be provided for each rentable unit, in addition to the two (2) spaces required for a single family dwelling. No such parking space shall be located in the front yard area and each space shall not be less than nine by twenty (9x20) feet.
- F. The dwelling may display a sign not to exceed two by two (2x2) feet in size.
- G. No bed and breakfast establishment shall be permitted where access is provided by a shared driveway.
- H. No bed and breakfast establishment shall be permitted in an individual Manufactured home or Manufactured home park.
- I. Each rentable unit in a bed and breakfast establishment shall maintain a working smoke detector.
- J. Such uses shall comply in full with the Orleans County Sanitary Code and the Codes of New York State.

SECTION 708 CAMPGROUNDS

The Planning Board may approve a special use permit for camping grounds in the Agricultural/ Residential (AR) or Waterfront Development (WD) District provided that the following standards and provisions are maintained:

- A. Campgrounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.
- B. No permanent external appurtenances such as carports, cabanas or patios may be attached to any travel trailer or other vehicular accommodation parked in a camp ground.
- C. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.
- D. Minimum site area: Ten (10) acres
- E. Not more than ten (10) travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- F. A campground shall be so located that no entrance or exits from a site shall discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A campground shall have a minimum of 150 feet of frontage on a public street.
- D. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of occupants. Natural vegetation shall be retained wherever possible. The site shall not be exposed to objectionable smoke, noise, odors, or to other adverse influences, and no portion of the campground subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- E. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of campground are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in campgrounds in such districts where such uses are not allowed as principal uses, subject to the following restrictions.
 - 1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the campground. Such establishments shall be restricted in their use to occupants of the campground.
 - 2. Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the campground.

3. The structures housing such facilities shall not be located closer than one hundred (100) feet to any public street and shall not be directly accessible from any public street, and shall only be accessible from a street within the campground.

F. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.

G. Streets in campgrounds shall be private, but shall be constructed with a stabilized travelway and shall meet the following minimum stabilized travelway width requirements:

One -way with no parking on either side:	12 feet
One -way with parking on one side	18 feet
Two-way with no parking on either side:	18 feet
Two-way with parking on one side:	27 feet
Two-way with parking on both sides:	34 feet.

All roadways and public parking areas shall either be paved or dust treated.

H. Each travel-trailer site shall be at least 2000 square feet in area and have a minimum width of 35 feet.

I. A minimum of eight percent (8%) of the gross site area for the campground shall be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area or utility site shall be counted as meeting recreational purposes.

J. Entrances and exits to campgrounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits.

K. Pedestrian walkways shall be provided to lead to all parking areas, restrooms or other service buildings. All walkways shall have adequate lighting.

L. An adequate lighting system shall be provided for the campground.

M. All utilities shall be underground.

N. Not less than one covered 20- gallon garbage receptacle shall be provided for each camp site. No camp site shall be situated further than 100 feet from a garbage receptacle. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.

O. All applicable sanitation standards promulgated by the State of New York, County of Orleans, or Town of Shelby shall be met.

- P. Setbacks. Each building or structure within a campground shall comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes, and the motor vehicles propelling or carrying the same may be located not closer than 15 feet to any side or rear lot line nor closer than 60 feet to any front lot line.
- Q. Campsites and buildings shall be set back not less than 25 feet from any stream which carries water more than six (6) weeks per year.

SECTION 710 CLUSTER RESIDENTIAL DEVELOPMENTS

The Planning Board may approve a special use permit for cluster residential developments of one-family dwellings in the Agricultural/ Residential (AR) or Rural Residential (RR) District provided that the following standards and provisions are maintained:

- A. A site development plan shall be submitted in conformance with the requirements of Article X of this Local Law.
- B. The minimum tract size shall be fifteen (15) acres.
- C. The lot size, yard, area and height requirements shall be established on an individual case basis which reflects the unique conditions of each site proposed for development, the potential impact on adjacent properties and to insure consistency with the Town Comprehensive Plan.
- D. The number of lots or units (density of development) in a cluster plan shall not exceed that which could be created under a conventional development plan for the same tract of land.
- E. The developers shall set aside an area of not less than twenty (20) percent of the gross acreage of the tract to be devoted exclusively to permanent recreation areas or open space.
- F. All recreation or open space areas shall, in the opinion of the Planning Board, be suitable for such use. The ownership and future maintenance of such recreation areas shall be subject to the approval of the Town Board or offered for dedication to the Town.
- G. In determining the overall density to be allowed for a residential site, all developable areas of the site will be included.

SECTION 711 CONFERENCE/ RESORT COMPLEX

The Planning Board may approve a special use permit for a conference/ resort complex in the Agricultural/ Residential (AR) District provided that the following standards and provisions are maintained:

- A. All applicable health and safety codes, including provisions of the Codes of New York State, are met.

- B. The maximum amount of coverage of buildings and paved areas on the lot shall not exceed fifteen percent (15%) of the lot area.
- C. Landscaped buffers shall be provided, which are sufficient to screen views of the facility from neighboring property and to minimize the impacts of noise, traffic and other operations of the facility on neighboring property, roads and other public facilities.

SECTION 715 DRIVE-IN BUSINESS

The Planning Board may approve a special use permit for a drive-in business in the General Business (GB) District provided that the following standards and provisions are maintained:

- A. The following information shall be submitted as part of the application for site plan approval and for a special use permit for a drive-in business addition to that information required in other sections of this Local Law.
 - 1. The location and dimensions of all structures including buildings, screened trash areas, fencing and lighting (show direction and level of illumination).
 - 2. The locations and dimensions of all off-street parking areas and ingress and egress locations.
 - 3. Proposed landscaping of site.
- B. All drive-in businesses shall be a minimum of 200 feet from other such businesses, which distances shall be computed as follows:
 - 1. For such businesses on the same side of the street, 200 feet measured between the two closest property lines.
 - 2. For such businesses on opposite sides of the street, 200 feet measured diagonally between the two closest property corners.
 - 3. For four-corner intersections, one such business may be located on a diagonally opposite corner exclusive of the 200 foot distance requirement.
- C. Banks with drive-in facilities shall be permitted provided that at least five car length spaces are provided in the approach drive within the property line of the lot for each drive-in teller's window. Such spaces shall be exclusive of required off-street parking spaces.
- D. All drive-in businesses shall provide suitable storage of trash in areas which are so designated and constructed as to allow no view of the trash storage from the street, to prevent waste paper from blowing around the site or adjacent properties or public right-of-ways, and to permit safe, easy removal of trash by truck or hand.

- E. Driveways and site access shall be planned as follows:
 - 1. The minimum distance from any driveway to a side lot line shall be 20 feet.
 - 2. The minimum distance between driveways on the site shall be 65 feet measured from the two (2) closest driveway curbs measured at a distance of 15 feet from the street curb.
 - 3. The minimum distance into the site from a street intersection shall be 30 feet measured from the intersection of the street right-of-way to the nearest end of the driveway curb radius.
 - 4. Drive-in businesses adjacent to or integrated in a shopping center or cluster of commercial facilities shall use the common access with other business establishments in that center.
- F. Exterior lighting proposed for the site shall be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source shall not be higher than twenty (20) feet.
- G. Sufficient landscaping and fencing shall be provided in order to minimize visual unattractiveness and minimize conflicts with adjacent land uses.
- H. Water supply and sewage disposal systems shall be reviewed by the Orleans County Health Department.
- I. Any outdoor eating area associated with a drive-in restaurant shall be maintained, landscaped and physically separated from any off-street parking area or driveway. Outdoor eating shall be allowed only if all parking and vehicular travel areas have a dust-free (hard) surface.

SECTION 720 ESSENTIAL SERVICES AND PUBLIC UTILITIES (Except for Telecommunications Facilities)

- A. Essential services and utilities, except for telecommunications facilities, may be allowed as special permit uses in all districts by the Planning Board.
- B. The Planning Board shall determine the following prior to approving a special permit:
 - 1. The proposed installation in a specific location is necessary and convenient for the efficiency of the essential services or the satisfactory and convenient provision of service to the area in which the particular use is located.
 - 2. The design of any building in connection with such facility shall conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.

3. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
4. All new and replacement electric distribution, telephone, cable TV and other lines shall be placed underground, if practical, as determined by the Planning Board during Site Plan Review.
5. All service connections from distribution lines to consumers shall be placed underground.
6. In the Rural Residential (RR), Waterfront Residential (WR) or Hamlet (HA) Districts, all points of necessary access, or transformers, shall be placed in secure structures at ground level.
7. All major electrical transformer facilities or substations, if above ground, shall be secured by an outer and inner fence, each ten feet from each other at any point; also no transformer or associated switches shall be closer than 100 feet from any lot line.
8. Adequate off-street parking shall be provided.
9. Adequate and attractive fences and other safety devices will be provided.

SECTION 722 EXCAVATION OR MINING - MAJOR

A special use permit is required for the excavation of more than 1,000 tons of minerals [roughly equivalent to at least 750 cubic yards or 40 to 50 truck loads] for commercial purposes within 12 consecutive calendar months and for the reclamation of the land affected by the excavation, including any operation accessory to the excavation or reclamation.

- A. The Planning Board may issue or renew a special use permit for such a use, provided that the proposed excavation and reclamation has been duly approved by the New York State Department of Environmental Conservation in accordance with the New York State Mined Land Reclamation Law, Title 27 of the New York State Environmental Law.
- B. All excavations and reclamation shall be made only in accordance with a mined land-use plan, including a mining and reclamation plan, which has been duly approved by the New York State Department of Environmental Conservation. This plan shall meet all applicable environmental protection codes established by federal, state and county agencies having jurisdiction. All permit application information, including mined land use plans, submitted to the Department of Environmental Conservation, along with all correspondence from the Department regarding the permit application, shall be submitted to the town.

The town shall notify the Department of Environmental Conservation of local concerns with regard to activities subject to this subsection.

SECTION 723 EXCAVATION OR MINING (MINOR)

The extraction of more than 100 tons but less than 1,000 tons of stone, sand or gravel for commercial purposes within 12 consecutive months shall be permitted with a special use permit in the Agricultural/ Residential (AR) or Industrial (I) District provided the following standards and conditions are maintained.

- A. Minimum lot area ten (10) acres
- B. In addition to site plan review requirements contained in Article X, the following information shall be supplied in conjunction with the Special permits procedures contained in Article IX.
 - 1. A duly acknowledged consent in writing by the owner or lessee of the premises and mortgagee, if any, including addresses.
 - 2. A statement as to the period of time required to complete the total operation, including restoration.
 - 3. The following information on the site plan:
 - a. Average thickness of overburden, that which is above the material to be excavated.
 - b. Surface drainage pattern including off site drainage where appropriate.
 - c. Location of all underground utilities and facilities.
 - d. The scale, an engineer's stamp, the north arrow, the names of surrounding land owners and such other information as the Planning Board or its agents or departments may require.
 - 4. An operation map and plan shall be supplied showing the following features including the area devoted to each:
 - a. Existing and proposed excavation areas
 - b. Existing and proposed appurtenant activities identified.
 - c. Existing and proposed access roads, identified by width and type of material used for construction including origin of material brought onto site.
 - d. Existing and proposed parking facilities, identified by type of surface material including origin of material brought onto site.
 - e. Existing and proposed fencing and buffers, identified by height and type of material.
 - f. Area where soil will be temporarily stored for use in restoration.

- g. Existing and proposed structures to be used in said operations.
 - h. General method of operation including a plan to reduce noise, dust and other nuisances.
 - i. Route to be used to and from excavation side including Town, County or State roads.
 - j. Elevations showing:
 - (1) existing ground level
 - (2) completed grade.
 - (3) benchmark
5. A restoration plan consisting of all appropriate descriptive materials and including the following:
- a. Boundaries of the area proposed for restoration.
 - b. Final topography of the area proposed for restoration at maximum contour intervals of five (5) feet.
 - c. Final surface drainage of pattern and location and characteristics of artificial drainage facilities in the area proposed for restoration and in contiguous areas.
 - d. Depth and composition of topsoil proposed to be used in restoration.
 - e. The type and density of trees and shrubs, grasses and other vegetation proposed to be used in restoration.
- C. In addition to the site plan approval criteria contained in Section 1105, the Planning Board's review of the site plan shall include the following:
- 1. Whether the excavations and proposed restoration plan are in accord with the intent of the comprehensive land development plan for the Town.
 - 2. Whether they will result in the creation of pits or holes, which may be hazardous or dangerous and eventually permanent in nature.
 - 3. Whether they will cause soil erosion or the depletion of vegetation.
 - 4. Whether they will render the land unproductive or unsuitable for agricultural or developmental purposes.
 - 5. Whether they will impair the aesthetic or natural environment of the excavation area or surrounding area.
 - 6. Whether they will affect the character of surrounding land use.

7. Whether they will create excessive traffic or impair the quality of the existing and proposed thoroughfare facilities, community facilities and drainage.
 8. Whether they will affect the control of nuisances.
 9. Whether the areas excavated can be effectively restored and revegetated.
 10. Whether the resultant drainage will be adversely affected.
 11. Whether the best interests of the Town are being served.
- D. Special permits for excavation and mining operations are of a one-year term initially and three-year terms for succeeding permits. A renewal of a permit may be issued without a public hearing when the area covered by the renewal or transfer does not extend beyond the area of operations originally authorized; however, the Planning Board may, in its discretion, direct a public hearing if it determines said hearing is necessary. Renewal of a special permit upon its termination shall follow the same procedures as those required for the original permit, except that if an application for renewal was properly filed prior to the expiration of an existing permit, the term of the existing permit shall be deemed to be extended to the time that the Planning Board files its decision in regard to the application for renewal.
- E. After the approval of the application and before the issuance of a special permit, the Planning Board shall require, evidence that the applicant has posted such performance Bond as may be required by the Town.
- F. Standards for Excavations
1. Setback
 - a. All buildings and excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line.
 - b. This setback area may be used to contain one (1) sign identifying the operation, fencing and buffers subject to regulations as specified in the Town Zoning Local Law.
 2. Access Roads and Parking
 - a. Access roads shall be sufficiently free of dust and mud to prevent such material from being spread or blown from the premises.
 - b. Sufficient off-street parking shall be provided inside the setback area for company, employee and visiting vehicles.
 3. Conservation Measures

- a. All topsoil stripped from the active excavation area shall be stockpiled for use in accordance with the restoration plan, but no closer than the immediate ten (10) feet to any property line. Such stockpiles shall be seeded, covered or otherwise treated to minimize the effects of erosion by wind or water.
- b. Excavations shall be buffered by appropriate landscaping sufficient to shield the operation from public view. These buffer areas shall be seeded and maintained by the operator.
- c. An adequate drainage system shall be provided to convey storm-water runoff originating on or crossing the premises such that the runoff follows, as much as feasible, the natural pattern of runoff prior to excavation and such that it does not adversely affect neighboring property owners. Soil erosion, sedimentation and ground-water seepage shall be controlled so as to prevent any negative effect on bodies of water, public roads and neighboring properties.

4. Other Safeguards

- a. All operations shall be conducted between the hours of 7:00 a.m. to 6:00 p.m. with no Sunday or Holiday operations, except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.
- b. All equipment used for excavations and processing shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practical, noises and vibrations, and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- c. Trucks shall be loaded to prevent spillage or wind-blown matter during transport on public roads.

G. Standards for Restoration

1. No slope shall be left with a grade, steeper than one (1) foot of vertical rise to three (3) feet of horizontal distance, and the normal angle or repose shall not be exceeded in any case.
2. All stumps, boulders and other debris resulting from the excavations, appurtenant activities or related operations shall be disposed of by approved methods. If disposed of on the site, such debris shall be covered with a minimum of two (2) feet of soil or if to be considered a part of the structure of a lake, it is to be covered by at least six (6) feet of water.
3. Topsoil shall be spread over the excavated area to a minimum depth of six (6) inches other than lake/pond areas.
4. The restoration area shall be planted with trees, shrubs, grass or other vegetation so as to provide for screening, natural beauty and soil stability. The planting shall follow acceptable conservation practices.

5. Restoration shall be undertaken in such a way that natural and storm drainage, where it enters and leaves the premises, shall be altered only to the minimal degree necessary to carry out excavations and appurtenant activities. Any alterations of natural and storm drainage shall not adversely affect public roads or neighboring property owners.
 6. Restoration shall be a continuous operation, subject to review and approval at each inspection and at the termination of the permit period. Topsoil grading and planting of the area designated for restoration during the permit period shall have been completed before a permit renewal is granted.
- H. The Planning Board shall consider the following criteria in their review of the special use permit request.
1. The current use of the property proposed to be excavated as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.
 2. The potential short-term and long-term effects of the proposal on the aesthetics and environment of the area or of surrounding areas.
 3. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or the desirability or feasibility for future development purposes.
 4. The amount of time, as estimated by the applicant, that will be required for the completion of the proposed excavation and the restoration of the property.
 5. Noise and/or vibrations that may be created by the proposed operation.
 6. Additional traffic, that may be created by the proposed operation. Deleterious effects, if any, on the property in the general area of the proposed operation.
- I. A performance bond or some other financial guarantee shall be required to assure that the conditions stipulated in the approval of the special use permit are carried out.

SECTION 730 FARM LABOR CAMPS

The Planning Board may approve a special use permit for a farm labor camp in the Agricultural/Residential (AR) District provided that the following standards and provisions are maintained.

- A. Special permits for the establishment and operation of Farm Labor Camps are subject to annual inspection. Upon inspection, if all of the requirements of the original permit have been complied with, and no new or additional request or relief is sought, the Planning Board shall authorize continuation of the Special Use Permit.
- B. Minimum site area of proposed Labor Camp shall not be less than two acres.
- C. Minimum front, side and rear setbacks shall not be less than 200 feet.

- D. Labor Camps may only operate during the growing and harvesting season (May to November) except when extraordinary circumstances are shown.
- E. The Zoning Officer may inspect the camp at any time on one day's notice to assure the provisions of this Local Law and the specific requirements of the Special Use Permit are being complied with.
- F. The Labor Camp and camp buildings must continually comply with all applicable local, state and federal laws, rules and regulations.
- G. The Planning Board, during site plan review, may take into consideration the general suitability of establishment of a Labor Camp in the particular area required.
- H. If substantial public opposition to establishment of a labor camp in the location requested is received, the Planning Board may consider such opposition as one factor in making their determination of approval or denial of the special permit.
- I. If the proposed labor camp is within a County Agricultural District and is operated in support of reasonable farming practices, the Planning Board may not unreasonably restrict its operation.

SECTION 731 FARM MARKET

The Planning Board may approve a special use permit for farm markets in the AR Agricultural/ Residential Districts provided that the following standards and provisions are maintained:

- A. Such structures shall not exceed 2,000 square feet of floor area.
- B. Not more than 1/3 of the total floor area shall be for the display and sale of products grown off the premises.
- C. Such structures shall conform to the minimum setback requirements for accessory buildings in this district as specified in the Zoning Schedule.
- D. Sufficient land area shall be provided to accommodate off-street parking for not less than three (3) vehicles on site.

SECTION 735 GASOLINE STATION

The Planning Board may authorize a special permit for gasoline stations in the Hamlet (HA) and General Business (GB) Districts.

A. Specifications:

Minimum lot size: 30,000 square feet
Minimum lot frontage: 150 feet

- B. Entrance and exit driveways shall have an unrestricted width of not less than 25 feet and not more than 30 feet, and shall be located not nearer than 15 feet from any property line, and shall be designed as to avoid the necessity of any vehicle backing out into any public right-of-way.
- C. Entrance and exit points shall be from a major or secondary road.
- D. Gasoline pumps shall be located not less than 30 feet from the street line and not less than 30 feet from all other property lines.
- E. No such establishment shall be located within a distance of 200 feet of a residence, cemetery, school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than 50 persons, or within 500 feet of another gasoline station or repair garage on the same side of the street. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- F. Landscaped areas of at least 10 feet in width shall be provided along property lines to lessen any visual unattractiveness.
- G. The entire area of the site traveled by motor vehicles shall be hard surfaced.
- H. Any repair of motor vehicles shall be performed in a fully enclosed building and no more than two (2) motor vehicles shall be offered for sale on the site at any one time. No motor vehicle parts, or partially dismantled motor vehicles shall be stored outside of an enclosed building.

SECTION 738 HEAVY INDUSTRY

The Planning Board may issue a special permit for a Heavy Industrial business, as defined herein, in the I or PD District, provided that the following standards and requirements are maintained.

- A. All material shall be stored, handled, unloaded, loaded and/or transferred indoors on an impervious floor surface, including the storage of containers containing recyclable or other materials.
- B. Periodic inspections by the Zoning Officer shall be permitted by the applicant and/or owner.

- C. A minimum lot area of ten (10) acres shall be required.
- D. The applicant must demonstrate that adequate on-site parking is provided so vehicles waiting to load or unload will not park on public highways.
- E. Hours of operation shall be demonstrated by the applicant to be limited to minimize impact on surrounding properties.
- F. Any structure located on the site shall be a minimum distance of 500 feet from property zoned for residential use.
- G. The applicant shall submit a route plan to indicate that traffic generated by the facility will have a minimal impact on residential streets. Said plan shall state the number and frequency of trips to and from the facility.
- H. All outdoor storage areas shall be suitably screened and indicated on the site plan.
- I. On-street parking of vehicles, containers or any other equipment or materials in any way connected with the facility shall be prohibited.
- J. The maximum height of the facility shall not exceed 40 feet.
- K. All buildings shall be set back 200 feet from all natural water bodies. A 100-foot buffer shall be required when adjoining residential and commercial zones.
- L. The Planning Board may incorporate as a condition of issuance of any such permit any safeguards it deems necessary to protect the public health, safety and welfare.

SECTION 740 HOME BUSINESS

The Planning Board may approve a special use permit for Home Businesses in any District where residences are permitted, provided that the following standards and provisions are maintained:

A. Intent

The purpose of this section is to provide opportunities for the economic advancement among residents of the Town and to protect the character of residential and agricultural areas of the Town. All business established pursuant to this section are expected to blend in with the existing character of the area in which it is located.

B. Type of Business

A variety of commercial and manufacturing uses may be permitted, provided that the requirements of this section are met.

C. Neighborhood Character

1. The appearance of the structure shall not be altered, and the business shall not be conducted in a manner that would cause the premises to differ from its existing residential/agricultural character, either by colors, material, construction, lighting, signs, or emissions of sounds, noises or vibrations.
2. The use shall not generate noise, dust, vibration, smell, smoke, glare, odors, smoke or electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the applicable zoning district.

D. Operation and Employees

1. The operator of the Home Business shall reside in the single family dwelling located on the same lot as the Home Business.
2. No more than two (2) persons, other than members of the immediate family occupying such dwelling shall be employed in such home business at any time. All family members employed in the family business must be residents of the dwelling.

E. Floor Space

1. No more than 40% of the gross floor area of a dwelling shall be used for the conduct of a home business up to a maximum of 1,000 square feet, provided that the portion of the dwelling used for residential purposes shall comply with all applicable laws and codes.
2. No more than 1,000 square feet of gross floor area of no more than one (1) detached accessory structure may also be permitted for use of a home business in addition to space within the dwelling.

F. Outdoor Storage and materials

1. No outside storage of material used in the Home Business shall be permitted except in the AR District. In the AR District, any outside storage shall be adequately screened from view from public streets and neighboring property, such screening may consist of vegetation, fencing or a combination.
2. A maximum of two (2) pieces of equipment, other than commercial vehicles, may be parked outdoors on the lot. Such equipment shall be operable and necessary for the conduct of the Home Business.
3. Outdoor storage of equipment used for home business shall only be permitted in the rear yard. Such equipment shall be completely screened from view of neighboring properties and public roads.

G. Outdoor Display of Goods

No outdoor display of goods for sale shall be permitted.

H. Signage

1. One sign shall be permitted to identify a Home Based Business. No sign shall have more than two (2) printed sides.
2. In the Rural Residential (RR) and Waterfront Residential (WR) R Districts, no sign shall exceed two (2) square feet.
2. In the AR District such sign shall not exceed **four (4)** square feet in area per side.
3. All signs shall require Site Plan approval by the Planning Board.

I. Commercial Vehicles

In the RR and WR Districts, no more than **one (1)** licensed Commercial Vehicles may be used in connection with a Home Business. Such vehicles may be parked outside but at the rear of the structure.

J. Number of Clients;

With the exception of the Family Day Care, the home business shall be conducted in such a manner that at one time, the maximum Number of vehicles of clients, customers, and others (except for Employees) at the site of the Home Business is not greater than off Road Parking spaces provided for under Section 601 and 602 of this Local Law.

K. Hours of Operation;

The Home Business shall be conducted in such a manner that all Clients, customers and others coming to do business) shall arrive and depart between the hours of 7:00 A.M. and 9:00 P.M.

L. Number of Home Based Business Permitted;

More than one (1) home based business may be permitted for each residential property, provided that the combined impact of such home Business does not exceed any of the thresholds established by this section.

M. Parking and Access

1. Off -Street parking shall be permitted as long as adequate space is provided with a turn-around area so that the vehicles do not have to back out into a public roadway. The off-street parking for the Home Business shall be in addition to the parking required for the employees and residents. Off-street parking shall be provided in accordance with Section 601.
2. No home business shall be permitted where access is provided only by a shared private road.

N. Setbacks

Any accessory building used in connection with the Home Business, shall be setback in compliance with the existing regulations of the Zoning Districts it is located in-- This also applies to off-street parking, loading areas, and outdoor storage areas.

O. Deliveries;

No Business shall be permitted that requires tractor-trailer deliveries on a regular basis (i.e. more than once a week) unless the Planning Board determines that the site can provide an adequate access and turning around space.

P. **Motor vehicle repair shops operating as a home business shall meet all of the requirements of this section as well as the criteria for motor vehicle repair shops, with the following additional requirements:**

- 1) **Special permit requirements for Motor Vehicle Repair shops shall apply. If requirements of these sections differ, the stricter requirements shall apply.**
- 2) **No more than two (2) vehicles being repaired or awaiting repair shall be permitted on the premises at any one time.**
- 3) **Motor vehicle sales are prohibited.**
- 4) **All automotive fluids shall be stored, handled and disposed of in a safe and legal manner.**

SECTION 743 HOTELS AND MOTELS

The Planning Board may authorize a Special Use Permit for a Hotel or Motel in the **Waterfront Development Overlay (WDO)** District provided the following standards and conditions are maintained.

A. Minimum Lot Dimensions:

- Minimum lot size: Two (2) acres
- Minimum lot width: Two hundred (200) feet
- Minimum lot setback: One hundred (100) feet
- Minimum side and rear setbacks: Forty (40) feet

- B. All signs should be carefully integrated with the site, building design and surrounding context to create a harmonious appearance for the Hamlet or waterfront area.
- C. No exterior lighting shall be erected, operated or maintained in such a manner as to create an annoyance to surrounding properties or so as to create a hazard to traffic circulation.

- D. No open-air outdoor storage of construction materials shall be permitted. Refuse and trash may be stored outdoors at all times only if placed in closed containers located in an area screened from view at all points on any public or private property or street when viewed from ground level.
- E. The proposed project will be in harmony with the appropriate and orderly development of the waterfront area. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as to adjacent development.
- F. The proposed project will not hinder or discourage the appropriate development and use of adjacent lands.
- G. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops, and other personal service shops for the convenience of guests may be permitted as accessory uses. With the exception of an identifying sign for the restaurant, no external evidence of their internal commercial activities is permitted.

SECTION 745 JUNK YARDS, AUTO WRECKING AND DISMANTLING YARDS

A license from the Town Board is required to establish or maintain a junkyard. See provisions of Local Law No. 2 of 1981.

SECTION 747 KENNELS AND ANIMAL HOSPITALS

The Planning Board may approve a special use permit for kennels in the Agricultural/ Residential (AR) District, provided that the following standards and provisions are maintained.

- A. When applying for a purebred boarding license the applicant shall indicate the number of dogs that will be boarded on the premises. Ownership of more than 4 dogs requires a kennel permit. This will include owned, boarded or parked dogs.
- B. Minimum lot size and frontage

Number of Dogs	Lot Size	Lot Frontage
4-5 dogs	2 acres	250 feet
6-10 dogs	5 acres	300 feet
11-20 dogs	10 acres	400 feet
21+ dogs	15 acres	400 feet

- C. Adequate landscaping or fencing shall be provided to create a visual, sound and smell buffer between such facilities and adjacent properties. Kennels must have a security fence

around perimeter, unless enclosed in a building. Security fence must be 8 feet high made of solid material.

- D. All buildings, structures or other accessory uses shall be at least 75 feet from any property line, except that animal runs and structures that house animals shall be at least 100 feet from any property line.
- E. No outdoor area enclosed by fences for the use of animals shall be permitted within a front yard. Fenced areas shall be setback not less than one hundred (100) feet from any side or rear property line.
- F. All animals shall be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.
- G. Lot coverage shall not exceed 25 percent
- H. Entrance and exit points shall be from major or secondary roads only.
- I. Adequate parking shall be provided in accordance with the size of the facility.
- J. Adjacent properties shall be protected from noise, odors, and unsightly appearance.
- K. Adequate provisions shall be made for disposing of animal waste. Applicants must indicate on application for permit the method of waste disposal and dead animal disposal. Recommended: septic system with 1,000 gallon tank for waste disposal. The proposed method of disposal of waste and/or dead animal carcasses shall be subject to review and approval by the Planning Board before any such method may be employed by any applicant.
- L. Individual kennels must be 40 sq. ft., 10 ft. x 4' 6" high chain link or similar fencing.
- M. Applicant must provide individual kennel per dog, if applicant applies for 11-20 dogs, there must be at least 10 individual kennels on premises.
- N. Kennels not in compliance when this zoning goes into effect will have 3 years to come into compliance to meet this code or no additional permits/ license will be issued.

SECTION 750

MANUFACTURED HOME PARK

The Planning Board may approve a special use permit for manufactured home parks in the A/R or RR District provided the following standards and provisions are maintained:

A. DEFINITIONS

Unless the context otherwise requires, the following definitions shall be used in the interpretation and administration of this Section:

MANUFACTURED HOME LOT: A lot within a manufactured home park for the placement of a single manufactured home and for the exclusive use of its occupants.

MANUFACTURED HOME STAND: That part of a manufactured home lot which has been reserved for the placement of the manufactured home and appurtenant structures and/or additions.

WATER CONNECTION: All pipes, fittings and appurtenances form the water riser pipe to the water inlet pipe of the distribution system within the manufactured home.

WATER RISER PIPE: That portion of the water service pipe which extends vertically to the ground elevation and terminates at a designated point of each manufactured home lot.

WATER SERVICE PIPE: Consists of all pipes, fittings, valves and appurtenances form the watermain of the manufactured home park distribution system to the water outlet of the distribution system within the manufactured home park.

SERVICE BUILDING: A structure housing sanitary, operational, office recreational, maintenance and other facilities within a manufactured home park.

SEWER CONNECTION: Pipes, fittings and appurtenances form the drain outlet of the manufactured home to the inlet of the corresponding sewer riser pipe of the sewer system that services the manufactured home park.

SEWER RISER PIPE: That portion of the sewer lateral which extends vertically to the ground elevation and terminates at a designated point at each manufactured home lot.

B. GENERAL SITE CONDITIONS

1. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property of the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable and or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property or hazards.
2. Exposed ground surfaces in all parts of every manufactured home park shall be paved or covered with stone screenings or other solid material or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
3. The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner.
4. No part of any manufactured home park shall be used for nonresidential purposes, except as permitted by this Section or this Local Law.

5. Nothing contained in this Section shall be deemed as prohibiting the sale of a manufactured home located on a manufactured home stand and connected to the pertinent utilities.

C. DIMENSIONAL REQUIREMENTS FOR MANUFACTURED HOME PARKS:

1. The minimum parcel size for a manufactured home park shall be ten (10) acres.
2. All manufactured homes shall be located at least forty (40) feet from any manufacture home park boundary line that abuts upon a public street or highway and at least twenty (20) feet from other manufactured home boundary lines.
3. There shall be a minimum distance of fifteen (15) feet between an individual manufactured home and adjoining pavement of a manufactured home park walkway, sidewalk, street or common parking area or other common areas.
4. All manufactured home parks shall be provided with screening such as attractive and well-maintained fences or natural growth along the property boundary line separating the manufactured home park from adjacent uses.

D. LOT AND AREA REQUIREMENTS:

1. No lot in any manufactured home park shall be less than sixty (60) feet wide and have less than seven thousand two hundred (7,200) square feet of total area, exclusive of easements and rights-of-way. No structure or manufactured home or any part thereof shall be located on any lot closer to any front lot line than twenty-five feet, or any side lot line than fifteen (15) feet nor to any rear lot line than twenty (20) feet.
2. Tapered lots occurring along curvilinear roads and culs-de-sac shall have an average lot width of sixty (60) feet. The "average lot width" is defined as the sum of the lengths of the front and back lot lines divided in half. In no case, however, shall the front lot width on such tapered lot be less than thirty-five (35) feet. The minimum requirements for the total area and yard dimensions as hereinabove stated shall apply to such tapered lots.
3. Any accessory structure which covers an area exceeding twenty-five (25) square feet and is attached to a manufactured home or is located within ten (10) feet of a window in such manufactured home and has an opaque top or roof that is higher than the nearest window shall be considered a part of the manufactured home for the purpose of determining its distance from lot lines.

E. RECREATION AREAS

1. In all manufactured home parks that accommodate or are designed to accommodate five (5) or more manufactured homes, there shall be one (1) or more recreation areas which shall be easily accessible to all park residents.

2. The combined size of such recreation areas shall be based upon a minimum of three hundred fifty (350) square feet per manufactured home lot. No outdoor recreation area shall be smaller than five thousand (5,000) square feet of area.
3. Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.
4. Playground equipment shall be installed in each required recreation area.

F. STREET SYSTEM

1. All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. Alignment and gradient shall be properly adopted to topography.
2. Access to manufactured home parks shall be designed to minimize congestion and hazards at the entrances and exists, and allow free movement of traffic on adjacent streets. The entrance road connecting the streets in the manufactured home park with a public street or road shall have a minimum road pavement width of thirty-four (34) feet where parking is permitted on both sides or a minimum road pavement width of twenty-seven (27) feet where parking is limited to one (1) side. Where the primary entrance road is more than one hundred (100) feet long and does not provide access to abutting manufactured home lots within such distance, the minimum road pavement width may be twenty-four (24) feet, provided parking is prohibited on both sides.
3. Internal surfaced roadways shall be of adequate width to accommodate anticipated traffic and in any case shall meet the following minimum requirements:
 - a. All streets, except minor streets, shall have a width of twenty-four (24) feet.
 - b. Minor streets with no parking shall have a width of eighteen (18) feet. This is acceptable only if the street is less than five hundred (500) feet long and serves fewer than twenty-five (25) manufactured homes or of any length if the street is one-way and provides access to abutting manufactured home lots on one side only.
 - c. Dead-end streets shall be limited in length to one thousand (1,000) feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least sixty (60) feet.

G. STREET ILLUMINATION

All manufactured home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average of maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

1. All parts of the street systems: six-tenths (0.6) foot-candle with a minimum of one-tenth (0.1) foot-candle.

2. Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated with a minimum of three-tenths (0.3) foot-candle.

H. STREET CONSTRUCTION DESIGN STANDARDS

1. All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surfaces and shifting of the pavement base. Street surfaces shall be maintained free of cracks, holes, and other hazards.
2. Grades of all streets shall be sufficient to ensure adequate surface drainage but be not more than percent (8%). Short runs with a maximum grade of ten percent (10%) may be permitted, provided that traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.
3. Streets shall be at approximately right angles within one hundred (100) feet of an intersection. A distance of at least one hundred fifty (150) feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two (2) streets at one (1) point shall be avoided.

I. OFF-STREET PARKING

1. Off-street parking areas shall be provided in all manufactured home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least one and one-quarter (1-1/4) parking spaces for each manufactured home lot.
2. Required parking spaces shall be so located as to provide convenient access to the manufactured home, but shall not exceed a distance of two hundred (200) feet from the manufactured home that it is intended to serve.
3. Each manufactured home lot shall have not less than two (2) off-street parking spaces. Such parking spaces shall be connected to the entrance of the manufactured home by a paved sidewalk having a minimum width of 36 inches.

J. WALKWAYS

1. All manufactured home parks shall be provided with safe, convenient, all-season, dust-free pedestrian access to adequate width for intended use, durable and convenient to maintain between individual manufactured park homes, the streets and all community facilities provided for the residents of the manufactured home park. Sudden changes in alignment and gradient shall be avoided.
2. A common walk system separated for the road system by a minimum of two (2) feet shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of three and one-half (3-1/2) feet.
3. All manufactured home lots shall be connected to common walks, to paved streets or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet.

K. LANDSCAPING

Trees and shrubs shall be provided along all walks and streets, around recreation areas and along the outer property line of the manufactured home park. Trees shall be planted at an interval of not less than fifty (50) feet where feasible.

L. MANUFACTURED HOME STANDS

The area of the manufactured home stand shall be improved to provide adequate foundation for the placement and tie-down of the manufactured home, thereby securing the superstructure against uplift, sliding, rotation or overturning.

1. The manufactured home stand shall not heave, shift or settle unevenly under the weight of the manufactured home or due to frost action, inadequate drainage, vibration, or other forces acting on the superstructure. The manufactured home stand shall be either drilled piers, trench footers or concrete slabs in accordance with the specifications hereinafter set forth:
 - (a) Such drilled piers shall be constructed of cast-in-place concrete having a minimum load-carrying capacity of three thousand (3,000) pounds per square inch; be a diameter of not less than twelve (12) inches; be a depth of not less than forty-two (42) inches; and be spaced at intervals of not more than eight (8) feet and centered on the manufactured home rails.
 - (b) Such trench footers shall be constructed of cast-in-place concrete having a load-carrying capacity of not less than three thousand (3,000) pounds per square inch; be a width of not less than sixteen (16) inches; be a depth of not less than forty-two (42) inches and be spaced at intervals of not more than eight (8) feet and be of sufficient length to accommodate the width of the manufactured home rails.
 - (c) Such concrete slabs shall be constructed of cast-in-place concrete having a thickness of not less than six (6) inches and shall be placed on top of cast-in-place concrete footer constructed along the entire perimeter of the concrete slab and shall have a width of not less than twelve (12) inches and a below-grade depth of not less than forty-two (42) inches.
2. The manufactured home stand shall be provided with anchors and tie-downs such as cast-in-place "dead men," eyelets imbedded in concrete foundations or runways, sore augurs, arrowhead anchors or other devices to secure the stability of the manufactured home.
3. Anchors and tie-downs shall be placed at least at each corner of the manufactured home stand, and each shall be capable of sustaining a minimum tensile strength of two thousand eight hundred (2,800) pounds.

M. WATER SUPPLY

1. An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home park. Where a public water supply of satisfactory quantity,

quality and pressure is available, connection shall be made thereto and its supply used exclusively. When a satisfactory public water supply is not available, a private water supply system may be developed and used as approved by the New York State Department of Health.

2. Source of Private Water Supply:

- (a) The water supply shall be capable of supplying a minimum of one hundred fifty (150) gallons per day per manufactured home.
- (b) Every well or suction line of the water supply system shall be located and constructed in such manner that neither underground nor surface contamination will reach the water supply from any source. The following minimum distance between wells and various sources of contamination shall be required:

Contamination Source	Distance from Well or Suction Line (feet)
Building sewer	50
Septic tank	50
Disposal field	100
Seepage pit	100
Dry well	50
Cesspool	150

- (c) No well-casings, pumping machinery or suction pipes shall be placed in any pit, room or space extending below ground level nor in any room or space above the ground which is walled in or otherwise enclosed, unless such rooms, whether above or below ground, have free drainage to the surface of the ground.
- (d) The treatment of private water supply shall be in accordance with applicable New York State laws and regulations.

3. Storage Facilities

All water storage reservoirs shall be covered watertight and constructed of impervious material. Overflows and vents of such reservoirs shall be effectively screened. Manholes shall be constructed with overlapping covers so as to prevent the entrance of contaminated material. Reservoir overflow pipes shall discharge through an acceptable air gap.

4. Distribution System

- (a) The water supply system of the manufactured home park shall be connected by pipes to all manufactured homes, buildings and other facilities requiring water.
- (b) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with State and local regulations and requirements and shall be of a type and in locations approved by the health authority.

- (c) The water piping system shall not be connected with nonpotable or questionable water supplies and shall be protected against the hazards of backflow or back siphonage.
- (d) The system shall be designed and maintained as to provide a pressure of not less than twenty (20) pounds per square inch under normal operating conditions at service buildings and other locations requiring potable water.

5. Water Risers

- (a) Individual water riser pipes shall be located within the confined area of the manufactured home stand at a point where the water connection will approximate a vertical position.
- (b) Water riser pipes shall extend at least four (4) inches above the ground elevation. The inside pipe diameter shall be at least three-fourths (3/4) of an inch.
- (c) Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes and to protect risers from heaving and thawing actions of the ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.
- (d) A shutoff valve below the frost line shall be provided near the water pipe riser on each manufactured home lot.
- (e) Underground stop and waste valves shall not be installed on any water service.

N. SEWAGE DISPOSAL

- 1. An adequate and safe sewage system shall be provided in all manufactured home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with State and local laws.
- 2. All sewer lines shall be located in trenches of sufficient depth to be free of breakage from traffic or other movements and shall be separated from the park water supply system at a safe distance. Sewers shall be at a grad which will ensure a velocity of two (2) feet per second when flowing. All sewer lines shall be constructed of materials approved by the New York State Health Department, shall be adequately vented and shall have watertight joints.
- 3. Sewer Connections
 - (a) Each manufactured home stand shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the manufactured home drain outlet will approximate a vertical position.
 - (b) The sewer connection shall have a normal inside diameter of at least three inches, and the slope of any portion thereof shall be at least one-fourth (1/4) inch

per foot. The sewer connection shall consist of one (1) pipeline only without any branch fittings. All joints shall be watertight.

- (c) All materials used for sewer connections shall be semi-rigid, corrosive-resistant, nonabsorbent and durable. The inner surface shall be smooth.
- (d) Provision shall be made for plugging the sewer riser pipe when a manufactured home does not occupy the lot. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four (4) inches above the ground elevation.

4. Treatment and Discharge

Where the sewer lines of the manufactured home park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the New York State Health Department prior to construction. Effluents from sewage treatment facilities shall not be discharged into any waters of New York State, except with prior approval of the New York State Department of Health.

O. ELECTRICAL DISTRIBUTION

1. General. Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with codes and regulations governing such systems.
2. Power Distribution Lines
 - (a) Main power lines not located underground shall be suspended at least eighteen (18) feet above the ground. There shall be a minimum horizontal clearance of three (3) feet between overhead wiring and any manufactured home, service building or other structure.
 - (b) All direct-burial conductors or cable shall be buried at least eighteen (18) inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one (1) foot of radial distance from water, sewer, gas or communication lines.
3. Electrical Connections
 - (a) Each manufactured home lot shall be provided with an approved disconnecting device and overcurrent protective equipment. The minimum service per outlet shall be one hundred twenty/two hundred forty (120/240) volts AC, fifty (50) amperes.
 - (b) Outlet receptacles at each manufactured home stand shall be located not more than twenty-five (25) feet from the overcurrent protective devices in the manufactured home, and a three-hole, four-wire grounding type shall be used. Receptacles shall be of weatherproof construction, and configurations shall be in accordance with American Standard Outlet Receptacle C-73.1.

- (c) The manufactured home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug.
- (d) Where the calculated load of the manufactured home is more than fifty (50) amperes, either a second outlet receptacle shall be installed.

4. Grounding

All exposed non-current-carrying metal parts of manufactured homes and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for manufactured homes or other equipment.

P. COMMUNITY SERVICE FACILITIES

1. The requirements of this Article shall apply to service buildings, recreation buildings and other community service facilities such as:
 - (a) Management offices, repair shops and storage areas
 - (b) Sanitary facilities
 - (c) Laundry facilities
 - (d) Indoor recreation areas
2. Every manufactured home park shall be provided with the following emergency sanitary facilities: For each one hundred (100) manufactured home lots, there shall be one (1) flush toilet, one (1) lavatory and one (1) shower for each sex. The building containing such emergency sanitary facilities shall be accessible to all manufactured homes. Such facilities and the structure housing the same shall be constructed and operational not later than thirty (30) days following the occupancy of each one hundred (100) lots in any such park.
3. Structural Requirements
 - (a) All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.
 - (b) All rooms containing sanitary or laundry facilities shall:
 - (i) Have sound-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof material or covered with moisture-resistant material.

- (ii) Have at least one (1) window or skylight facing directly to the outdoors. The minimum aggregate gross area of windows for each required room shall be not less than ten percent (10%) of the floor area served by them.
 - (iii) Have at least one (1) window which can be easily opened or a mechanical device which will adequately ventilate the room.
 - (iv) Toilets shall be located in separate compartments equipped with self-closing doors. Shower stalls shall be of the individual type. The rooms shall be screened to prevent direct view of the interior when the exterior doors are open.
- (c) Illumination levels shall be maintained as follows:
 - (i) General seeing tasks: five (5) footcandles.
 - (ii) Laundry room work area: forty (40) footcandles.
 - (iii) Toilet room, in front of mirrors: forty (40) footcandles.
 - (d) Hot and cold water shall be furnished to every lavatory, sink, bathtub, shower and laundry fixture and cold water shall be furnished to every water closet and urinal.
4. Cooking shelters, barbecue pits, fireplaces and wood- burning stoves shall be so located constructed, maintained and used as to avoid fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors. No refuse shall be burned at any time.

Q. GARBAGE, RUBBISH AND REFUSE

1. The storage, collection and disposal of refuse in the manufactured home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.
2. All refuse shall be stored in fly tight, watertight, rodent proof containers, which shall be located not more than one hundred fifty (150) feet from any manufactured home lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.
3. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.
4. All refuse containing garbage shall be collected at least twice weekly. Where suitable collection service is not available from municipal or private agencies, the manufactured home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers.

5. Where municipal or private disposal service is not available, the manufactured home park operator shall dispose of the refuse by transporting it to the Town disposal site.
6. Refuse incinerators shall be operated only when attended by some person specifically authorized by the owner or operator of the manufactured home park.

R. INSECT AND RODENT CONTROL

1. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements of the New York State Department of Health and the Orleans County Department of Health.
2. Parks shall be maintained free of accumulations of debris, which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
3. Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe and other building materials shall be stored at least one (1) foot above the ground.
4. Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.
5. The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parks shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

S. FUEL SUPPLY AND STORAGE

1. Natural Gas System.
 - (a) Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
 - (b) Each manufactured home lot provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.
2. Liquefied Petroleum Gas Systems.
 - (a) Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

- (b) Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
- (c) Systems shall have at least one (1) accessible means for shutting off gas. Such means shall be located outside the manufactured home and shall be maintained in effective operating condition.
- (d) All liquefied petroleum gas piping outside of the manufactured home shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in manufactured homes.
- (e) Liquefied petroleum gas containers installed on a manufactured home lot shall be securely but not permanently fastened to prevent accidental overturning. Such containers shall not be less than twelve (12) nor more than sixty (60) United States gallons' gross capacity.
- (f) No liquefied petroleum gas vessel shall be stored or located inside or beneath any storage cabinet, carport, manufactured home or any other structure, unless such installation is approved by the health authority.

3. Fuel Oil Supply Systems

- (a) All fuel oil supply systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
- (b) All piping from outside fuel storage tanks or cylinders to manufactured homes shall be permanently installed and securely fastened in place.
- (c) All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any manufactured home or less than five (5) feet from any manufactured home exit.
- (d) Storage tanks located in areas subject to traffic shall be protected against physical damage.

T. FIRE PREVENTION

- 1. The manufactured home area shall be subject to fire-prevention ordinances which may be adopted by the Town.
- 2. Manufactured home parks shall be kept free of litter, rubbish and other flammable materials.
- 3. Portable fire extinguishers of a type approved by the fire prevention authority shall be kept in service buildings and at all other locations designated by such fire prevention authority and shall be maintained in good operating conditions.

4. Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.
5. Fire Hydrants
 - (a) Fire hydrants shall be installed if the park water supply system is capable of serving them in accordance with the following requirements:
 - (i) The water supply system shall permit the operation of a minimum of two (2) one-and-one-half-inch hose streams.
 - (ii) Each of two (2) nozzles, held four (4) feet above the ground, shall deliver at least seventy-five (75) gallons of water per minute at a flowing pressure of at least thirty (30) pounds per square inch at the highest elevation point of the park.
 - (b) Fire hydrants, if provided, shall be located within five hundred (500) feet, measured along or through roads or other open public areas, of any manufactured home, service building or other structure of the park.

U. RESPONSIBILITIES OF PARK MANAGEMENT

1. The person to whom a license for a manufactured home park is issued shall operate the park in compliance with this Section and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
2. The park management shall notify park occupants of all applicable provisions of this Section and inform them of their duties and responsibilities under this Section and regulations issued hereunder.
3. The park management shall supervise the placement of each manufactured home on its manufactured home stand, which includes securing its stability and installing all utility connections.
4. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park.
5. The park management shall notify the State Health Department immediately of any suspected communicable or contagious disease within the park.

V. RESPONSIBILITIES OF PARK OCCUPANTS

1. The park occupants shall comply with all applicable requirements of this Section and regulations issued hereunder and shall maintain their manufactured home lots, facilities and equipment in good repair and in a clean and sanitary condition.

2. The park occupant shall be responsible for proper placement of his manufactured home on its manufactured home stand and proper installation of all utility connections in accordance with the instruction of the park management.
3. No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large or to commit any nuisance within the limits of any manufactured home lot.

W. CONDITIONS REQUIRED PRIOR TO OCCUPANCY

A manufactured home shall not be occupied for dwelling purposes unless it is properly placed on a manufactured home stand and connected to water, sewerage and electrical utilities.

X. LICENSE REQUIRED

It shall be unlawful for any person to construct, alter or extend any manufactured home park within the Town of Shelby or to locate a manufactured home therein without a valid license issued by the Zoning Enforcement Officer. Licenses are issued and valid for a twelve-month period, but may be renewed as provided for in this Section.

Y. PRE-EXISTING MANUFACTURED HOME PARKS

Manufactured home parks operating under a valid license issued prior to the effective date of this Local Law may continue to operate under the terms of such license until the expiration of such license. Before renewal of the license, such manufactured home park shall be brought into compliance with the provisions of this Section.

Z. LICENSE APPLICATION REQUIREMENTS

1. All applications for licenses or for renewal of licenses shall be submitted to the Zoning Enforcement Officer and shall contain the following:
 - (a) The name and address of the applicant; if the applicant is a partnership, the names and addresses of the partners; and if the applicant is a corporation, the names and addresses of the officers and directors.
 - (b) The name and address of the owner of the property.
 - (c) A copy of a current lease agreement between the applicant and the owner of the property if the applicant is not the property owner.
 - (d) the location and legal description of the manufactured home park.
 - (e) Plans and specifications for the water supply and refuse and sewage disposal facilities to be constructed, altered or extended within the manufactured home park.
 - (e) Plans and specifications for all buildings to be constructed, altered or extended within the manufactured home park.

- (f) All applications for licenses or renewals or licenses shall be accompanied by application fee which shall be set from time to time by a resolution of the Town Board.
2. Upon review of the application and evidence that the manufactured home park meets the minimum requirements of the New York State Department of Health and subject to the Planning Board approving a Special Use Permit. The Zoning Enforcement Officer shall issue or renew a license when a review of the application and inspection of the site demonstrates that the proposed or existing manufactured home park satisfies the requirements of this Local Law and any provisions imposed by the Town Planning Board as conditions to the approval of the Special Use Permit.

AA. INSPECTIONS

1. The Zoning Enforcement Officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Local Law.
2. The Zoning Enforcement Officer shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this Local Law.
3. The Zoning Enforcement Officer shall have the power to inspect the register containing a record of all residents of the manufactured home park.

BB. REVOCATION OF LICENSES

Any license for a manufactured home park may be revoked when it is found to be in violation of the provisions of this Section.

1. Should the Zoning Enforcement Officer find a violation of any provision of this Local Law or the Special Use Permit, the Zoning Enforcement Officers shall give notice, in writing, to the licensee, that unless such violations are corrected within ten (10) days, the permit shall be revoked.
2. If, at the end of the ten (10) days, a further inspection reveals that the violation(s) have not been corrected, the Zoning Enforcement Officer shall revoke the permit and give notice of such revocation, in writing, to the licensee. Upon notice of revocation, the licensee shall cease operation of the manufactured home park.

CC. APPEALS

1. Petition - Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Section or of any regulation adopted pursuant thereto may request and shall be granted a hearing on the matter before the Town Board, provided such person shall file in the office of the Town Clerk a written petition to request such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the notice was served. The filing of the

request for a hearing shall operate as a stay of the notice and suspension, except in the case of an order issued in accord with Subdivision F of this Section. Upon receipt of such petition, the Town Board shall set a time and place for such hearing and shall give the petitioner written notice thereof.

2. Hearing - At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be held not later than ten (10) days following the day on which the petition was filed, provided that, upon application of the petitioner, the governing body may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in the judgment of the governing body, the petition has submitted good and sufficient reasons for such postponement.
3. Order of the Town Board - After such hearing, the Town Board shall make findings as to compliance with the provisions of this Section and regulations issued hereunder and shall issue an order to sustain, modify or withdraw the notice of violation, which shall be served in writing on the petitioner. Upon failure to comply with any order sustaining or modifying the notice of violation within ten (10) days following the service of said order, the license of the manufactured home park affected by the order shall be revoked.

DD. EMERGENCY CONDITIONS

Whenever the Zoning Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, Zoning Enforcement Officer may, without notice or hearing, issue an order reciting the existence of such emergency and require that such action be taken as the Zoning Enforcement Officer may deem necessary to address or remedy the emergency, including the suspension of the license. Notwithstanding any other provisions of this Section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Town Board, shall be afforded a hearing as soon as its is practicable for the Town Board to schedule such hearing. The provisions of Subdivision E of this Section shall be applicable to such hearing and the order issued thereafter.

EE. HIGHER STANDARDS TO PREVAIL

In any case where a provision of this Section is found to be in conflict with a provision of any other ordinance or code of the Town of Shelby existing on the effective date of this Section, the provision which establishes the higher standard shall prevail.

SECTION 753 MARINA OR BOAT LAUNCH

The Planning Board may authorize a Special Use Permit for a Marina in the Waterfront Development Overlay (WDO) District provided the following standards and conditions are maintained

- A. Rest rooms shall be provided for the use of its customers or clientele.

- B. Trash disposal receptacles shall be sufficient to accommodate all trash generated by the marina's customers or clientele and maintained in a clean and usable condition.
- C. Adequate parking spaces shall be provided for customer's vehicles, as determined by the Planning Board. A minimum of 1/2 space per boat slip shall be required, plus one (1) space for each employee and additional spaces as required for boat launches and other accessory uses.
- D. An identification number corresponding to the permit number shall be assigned to the owner of the wharf or wharves under permit. This number is to be displayed in such a manner that it is readily visible from the water.
- E. The marina's maintenance program shall be sufficient to keep all wharves, adjacent shoreline, water and the lake bottom clean of debris.
- F. The marina shall be designed and managed to minimize the project's visual impact and avoid any navigational hazards.
- G. The marina shall prepare and follow a plan designed to avoid damage to the environment due to leakage or spills of fuels, lubricants, waste products or other pollutants.
- H. Accessory use may include the provision of fuel and supplies, minor and emergency repairs for recreational boats, boat rental, boat storage and sale and restaurant and related retail sales.

SECTION 755 MOTOR VEHICLE, BOAT OR MANUFACTURED HOME SALES

The Planning Board may approve a special use permit for the sales of motor vehicles, boats or manufactured homes in the General Business (GB) District provided that the following standards and provisions are maintained:

- A. Such sales may be conducted either in a fully enclosed building located on the same lot, or in an unenclosed area. If such sales are conducted in a fully enclosed building located on the same lot, such building shall have a building area of not less than 5,000 square feet devoted to the sale and service of automobiles or boats.
- B. Minimum Specifications:
 - Front Setback for building: 75 feet
 - Side Setback 30 feet
 - Rear Setback 30 feet
 - Lot frontage 200 feet
 - Lot size One (1) acre
- C. No vehicle shall be displayed for sale or rent within 25 feet of any property line, including edge of any highway or roadway. No manufactured homes shall be displayed within any

required building setback. The maximum coverage for buildings shall apply to manufactured homes for sale, in addition to buildings used in the conduct of such sales.

- D. Entrance and exit driveways shall have a minimum width of 25 foot and shall be not less than 20 foot from any side property line.
- E. No more than 25 automobiles shall be offered for sale or rent on any lot at any time, and all automobiles shall be displayed in a neat and orderly manner.
- F. All automobiles displayed on a lot shall be in proper working order at all times and shall have a valid Motor Vehicle Registration or Title.
- G. The entire surface of the site to be traveled by motor vehicles shall be hard surfaced.
- H. No retail sales of fuel shall occur on the site at any time.
- I. All signs must comply with Section 600 of the Town of Shelby Zoning Local Law.
- J. No exterior light source shall be erected in excess of 50 foot above ground surface and all lighting shall be placed to eliminate the casting of direct light or glare upon the adjacent property and highway.
- K. Repair of Motor Vehicles on site is prohibited unless the provisions found in Section 756 (Special Use Permit criteria for Motor Vehicle Repair Shops) are complied with in full. In such case where two different specifications are listed, the greater dimension will apply.
- L. No such establishment shall be located within a distance of 200 foot of a residence, cemetery, school, church, hospital, nursing home or senior citizen housing. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- M. Permits must be renewed annually by the Planning Board, after inspection by the Zoning Enforcement Officer.

SECTION 756 MOTOR VEHICLE REPAIR SHOPS

The Planning Board may approve a special use permit for motor vehicle repair shops in the Hamlet (HA), Agricultural/ Residential or General Business (GB) District provided that the following standards and conditions are maintained.

No building permit or Certificate of Occupancy shall be issued for a Motor Vehicle Repair or Sales Facility and no person shall operate a Motor Vehicle Repair or Sales Facility until a Special Permit shall have been issued by the Town Planning Board in accordance with the requirements and procedures set forth below.

A. Specifications

Minimum lot size: **30,000 square feet**

Minimum road frontage: 150 feet along County highways and Town roads
250 feet along State highways

- B. Entrance and exit driveways shall have an unrestricted width of not less than 25 feet and not more than 30 feet, and shall be located not nearer than 10 feet from any property line, and shall be designed as to avoid the necessity of any vehicle backing out into any public right-of-way.
- C. No more than six (6) licensed motor vehicles being serviced or repaired shall be stored or parked outdoors for more than 48 hours, and these shall be in areas effectively screened from all property lines. All such vehicles shall be stored in a neat, orderly manner.
- D. Hours of operation of a Motor Vehicle Repair or Sales Facility shall commence not earlier than 7:00 a.m. and shall cease not later than 11:00 p.m. on Monday through Saturdays and shall commence not earlier than 12:00 noon and shall cease not later than 11:00 p.m. on Sunday, provided however, that nothing herein contained shall prevent the operator of such a facility from providing, at any hour, emergency service in the event of accident or other emergency.

The owner of a Motor Vehicle Repair or Sales Facility may perform work on vehicles actually owned by him at any hour, provided, such work does not violate any other Town, State or Federal laws, rules or codes.

- E. No such establishment shall be located within a distance of 200 feet of a residence, cemetery, school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than 50 persons. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- F. A buffer strip shall be established, as determined by site plan review, along a side or rear property line facing any of the uses listed in E. above.
- G. The entire area of the site traveled by motor vehicles or used for display shall be hard surfaced, as defined herein.
- H. All repair of motor vehicles shall be performed in a fully enclosed building.
- I. No more than two (2) motor vehicles shall be offered for sale on the premises at any one time. If additional vehicles are offered for sale, the operator shall obtain a Special Use Permit for Motor Vehicle Sales (see Section 757).
- J. All motor vehicle parts or partially dismantled motor vehicles shall be stored inside an enclosed building, or in a hard surfaced area designated by the Town Planning Board in its decision, establishing the number of vehicles or quantity of parts to be stored.
- K. No new Motor Vehicle Repair or Sales Facility shall be conducted in any building attached to a dwelling.
- L. The following procedure shall be followed in obtaining and renewing Special Permits for Motor Vehicle Repair or Sales Facility.

1. Special Permits for Motor Vehicle Repair or Sales Facilities shall be issued on or before July 1st of each year. Such Permits shall be in effect for one (1) year periods after an inspection by the Zoning Enforcement Officer to determine continued compliance with the requirements of this Local Law. Any such permits that shall remain unrenewed after July 31st shall not be renewed or reissued thereafter until a new application therefore has been filed and a public hearing has been held thereon as required in the foregoing subparagraphs of this Section. Any such permit may be revoked by the Town Planning Board for violation of this Local Law. The permittee shall have the right to a hearing before the Town Planning Board on any such revocation but application for such hearing must be made, in writing, stating the facts upon which the revocation is questioned, within 15 days of the delivery of the notice of revocation to such permittee.
2. The fee for initial issuance and for renewal of a Special Permit for a Motor Vehicle Repair or Sales Facility shall be set by the Town Board. A person to whom a junkyard license has been issued by the Town, who upon the licensed premises also conducts operations that would require a Motor Vehicle Repair or Sales Facility Special Permit, will not be required to pay the above fee and the same shall be deemed included in the fee paid for the junkyard license. The fee for any such license that shall be issued for a period of less than one (1) year shall be prorated on a monthly basis.

SECTION 757 MOTOR VEHICLE SALES/ RENTAL

The Planning Board may approve a special use permit for the sales of motor vehicles, boats or manufactured homes in the General Business (GB) District provided that the following standards and provisions are maintained:

- A. Such sales may be conducted either in a fully enclosed building located on the same lot, or in an unenclosed area. If such sales are conducted in a fully enclosed building located on the same lot, such building shall have a building area of not less than 5,000 square feet devoted to the sale and service of automobiles or boats.
- B. Minimum Specifications:

Front Setback for building:	75 feet
Side Setback	30 feet
Rear Setback	30 feet
Lot frontage	200 feet
Lot size	One (1) acre
- C. No vehicle shall be displayed for sale or rent within 25 feet of any property line, including edge of any highway or roadway. No manufactured homes shall be displayed within any required building setback. The maximum coverage for buildings shall apply to manufactured homes for sale, in addition to buildings used in the conduct of such sales.
- D. Entrance and exit driveways shall have a minimum width of 25 foot and shall be not less than 20 foot from any side property line.

- E. No more than 25 automobiles shall be offered for sale or rent on any lot at any time, and all automobiles shall be displayed in a neat and orderly manner.
- F. All automobiles displayed on a lot shall be in proper working order at all times and shall have a valid Motor Vehicle Registration or Title.
- G. The entire surface of the site to be traveled by motor vehicles shall be hard surfaced. There shall be a minimum of 200 square feet of hard surfaced display area for each motor vehicle to be offered for sale, rent or lease and the permit shall specify the gross number of vehicles that may be offered for sale, rent or lease on the premises at any one time.
- H. No retail sales of fuel shall occur on the site at any time.
- I. All signs must comply with Section 600 of the this Local Law.
- J. No exterior light source shall be erected in excess of 50 foot above ground surface and all lighting shall be placed to eliminate the casting of direct light or glare upon the adjacent property and highway.
- K. Repair of Motor Vehicles on site is prohibited unless the provisions found in Section 756 of the this Zoning Local Law are complied with in full, in such case where two different specifications are listed, the greater dimension will apply.
- L. No such establishment shall be located within a distance of 200 foot of a residence, cemetery, school, church, hospital, nursing home or senior citizen housing. Said distance shall be measured in a straight line between the nearest points of each of the lots or premises.
- M. Permits must be renewed annually by the Town Planning Board, after inspection by the Zoning Enforcement Officer.

SECTION 760 MULTIPLE FAMILY DWELLINGS

The Planning Board may approve a special use permit for multiple family developments in the Hamlet (HA), General Business (GB), and -Waterfront Residential (WR) Districts provided that the following standards and provisions are maintained:

- A. The maximum gross density shall not exceed eight (8) units per acre.
- B. Minimum Gross Floor Area Requirements:
 - 1. Townhouse units with two bedrooms or less: 850 square feet
 - 2. Townhouse units with three bedrooms or more: 1,000 square feet
 - 3. Efficiency Apartment unit: 550 square feet
 - 4. Apartment unit, one bedroom: 675 square feet
 - 5. Apartment unit, two bedrooms: 800 square feet
 - 6. Apartment unit, three bedrooms: 950 square feet

C. Unit Distribution

1. No more than 20 percent of the total units within a multiple family dwelling development shall be three (3) or more bedroom units.
2. No more than 30 percent of the total units within a multiple family dwelling development shall be efficiency units.

D. Setback Requirements:

1. The minimum front setback from the right-of-way of any public street shall be 70 feet.
2. The minimum side setback shall be 30 feet.
3. The minimum rear setback shall be 60 feet.
4. Minimum distance between buildings in a multiple family dwelling development shall be 80 feet.
5. Every building shall have a minimum setback of 25 feet from all interior roads, driveways and parking areas.
6. A strip of land at least six (6) feet in width surrounding each building shall be kept completely open except for foundation plantings of less than six (6) feet in height.

E. All stairways to the second floor or higher shall be located inside the building.

F. Access to public road:

1. All multiple-family dwelling developments shall have direct access to public roads preferably by way of private driveway designed to avoid the necessity of any vehicle backing into a public right-of-way.
2. If there are more than twelve (12) dwelling units in a multiple-family development, direct access shall be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
3. If there are more than 50 dwelling units in a multiple-family development, or if in the opinion of the Planning Board the location or topography of the site indicates the need for additional access, the Planning Board may require such additional access as a condition of site plan approval.

G. Requirements for off-street parking

1. The requirements as provided in Section 601 of this Local Law shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that such lots shall not be located within the front yard or the required side yard setback. Paved pedestrian walkways, with appropriate

lighting, shall be provided from off-street parking areas to all living units each parking area is intended to serve.

2. Off-street parking shall be provided in the amount of two (2) spaces for each unit , plus one (1) additional parking space for each grouping of six (6) units.
- H. The aggregate of building coverage of multiple-family dwelling development shall not exceed 30 percent of the total lot area.

I. Recreation, open space, maintenance:

1. Multiple family dwelling complexes shall be designed to create usable private open space. A minimum of ten (10) percent of the total tract area, exclusive of the required setback areas, buffer strip and parking areas shall be designated for common recreational purposes.
2. No recreational area shall be less than 10,000 square feet in area nor less than 100 feet in width. Areas designated for recreation purposes shall be approved by the Planning Board.
3. Multiple family dwelling complexes shall be attractively landscaped and properly maintained. Open space adjacent to, around, or between driveways, parking areas, structures or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material.

J. Utilities:

1. All public utility, electric, gas, cable television and telephone lines shall be installed underground.
2. Multiple family developments shall be connected to and served by public water supply and sanitary sewer systems. Such systems shall be approved by the Orleans County Health Department and other applicable agencies.

SECTION 762 NEIGHBORHOOD BUSINESS OR PROFESSIONAL OFFICES

The Planning Board may authorize a Special Use Permit for a Neighborhood Business or Professional Offices in the Hamlet (HA) or Waterfront Development Overlay (WDO) District provided the following standards and conditions are maintained.

A. Requirements for all uses

1. No neighborhood business or professional office establishment shall occupy a floor area greater than ten thousand (10,000) square feet to conduct its operations and to store its wares, products, inventory and materials.
2. Hours of operation shall be specified and limited as needed to protect the quality of life of neighboring residences.
3. All signs should be carefully integrated with the site, building design and surrounding context to create a harmonious appearance for the Hamlet or waterfront area.
4. No exterior lighting shall be erected, operated or maintained in such a manner as to create an annoyance to surrounding properties or so as to create a hazard to traffic circulation.

5. No open-air outdoor storage of construction materials shall be permitted. Refuse and trash may be stored outdoors at all times only if placed in closed containers located in an area screened from view at all points on any public or private property or street when viewed from ground level.
6. The proposed project will be in harmony with the appropriate and orderly development of the Hamlet or waterfront area. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as to adjacent development.
7. The proposed project will not hinder or discourage the appropriate development and use of adjacent lands.

B. Additional provisions for restaurants

Accessory uses and structures customarily incidental to the operation of a restaurant, including but not limited to, eating and drinking facilities, dance floor, facilities for live entertainment, bandstand, banquet facilities.

SECTION 764 OUTDOOR RECREATION FACILITIES, INCLUDING GOLF COURSES, HUNTING AND FISHING CLUBS, AND OPEN AIR THEATERS

The Planning Board may approve a permit for an outdoor recreation facility within the Agricultural/Residential (AR), General Business (GB), or **Waterfront Development Overlay** District provided that the following standards and conditions are maintained.

A. Conditions for all facilities

1. No building, structure, parking lot or unenclosed recreational facility shall be located within 50 feet of any side or rear property line, unless the Planning Board determines that a smaller buffer is acceptable.
2. Unenclosed facilities shall be effectively screened from public streets and neighboring residential uses.
3. No public address system is permitted, except where such system will not be audible at any property line.
4. Outdoor lighting shall not project light onto, nor shall light sources be visible from, neighboring properties or public or private roads, streets, or vehicular right-of-ways.
5. Access to the facility shall be from a state or county highway or a through town roadway other than a residential subdivision street. Location and design of entrance drives shall be such as to minimize traffic hazard and nuisance factors.
6. All required parking spaces shall be provided on the site in appropriate areas sufficient in size to meet demand during special events and other peak loading periods.

7. In any district where permitted, retail sales which are clearly secondary to the principal use are permissible.
8. The facility shall be designed and intended for use by less than 500 persons at any given time.
9. Access drives shall be adequate to accommodate vehicles queued for admission without traffic backup into the road right-of-way.
10. Sanitary facilities, sewage disposal and water supply shall be adequate and in compliance with applicable state and local regulations.
11. The hours of operation for such outdoor recreation facilities shall be subject to review and approval of the Planning Board during site plan review. In determining the permitted hours of operation, the Planning Board shall consider protection of the character of the existing neighborhood, the proximity of adjacent residences, and impact on adjacent property values.
12. Specific types of activities, capacity for participants and spectators and hours of operation shall be considered in determining the compatibility of the facility with the surrounding neighborhood.

B. Additional requirements for golf courses

1. A golf course shall have at least 9 holes conforming to the standards of the United States Golf Association and shall not be constructed on a site having less than 50 acres, with another 50 acres for each additional 9 holes or fraction thereof.
2. A practice driving range shall be permitted as an accessory use to a golf course, provided that there shall be no more than one (1) driving tee for each acre in the total tract and no artificial lighting shall be allowed. Driving ranges shall also constitute a principal and be subject to special use permit approval as a golf course provided that there shall be no more than one (1) driving tee for each acre in the total tract, and shall not be subject to the requirements of paragraph 1 above.
3. There shall be no more than one (1) accessory clubhouse or other building designed to provide for lockers, enclosed eating facilities without takeout privileges and shop for the sale of golf equipment.
4. Additional accessory buildings may be permitted, including buildings for the storage and maintenance of equipment and machinery used in connection with a golf course.
5. Drought-tolerant grasses shall be required on all golf courses in order to minimize irrigation and fertilizer needs.
6. All buildings, parking areas, greens, tees, swimming pools and similar sources of noise shall be designed to assure the quiet enjoyment of adjacent properties and shall be set back not less than 100 feet from an adjacent property line.
7. Not more than five percent (5%) of the site shall be covered by buildings.
8. The golf course and any accessory driving range shall be designed to minimize stray golf shots from crossing onto private properties or public rights-of-way. A vegetated buffer area of not less than 20 feet in depth shall be provided along the boundaries of the golf course property.

9. Any seasonal use of the golf course for such activities as cross-country skiing or snow mobile trails shall be subject to Planning Board approval. The operator shall submit a proposed site plan to the Planning Board delineating the locations proposed for such activities.
10. Fertilizers and chemicals shall be applied in such a manner that they would not affect the quality of groundwater or streams.

SECTION 765 PONDS

The Planning Board may issue a special permit for a farm pond in the Agricultural-Residential (AR), Industrial (I), Rural Residential (RR) District, provided that the following standards and conditions are maintained.

A. Procedures

1. Any pond with more than 1.0 acres in surface area must meet all requirements of the Orleans County Soil and Water Conservation District as well as applicable Department of Environmental Conservation (DEC) requirements before the Planning Board may act. The applicant shall present a plan for pond construction of the pond that bears the approval of the Orleans County Soil and Water Conservation District Office.
2. The applicant shall furnish evidence of a valid permit from New York State Department of Environmental Conservation if pond is in excess of nine and one half (9.5) acres.
3. A special permit for a pond under 1.0 acres may be authorized by the Planning Board without the need for approval by the Orleans Soil and Water approval or DEC.

B. Requirements

1. All ponds must have a 100 foot setback from all adjoining roads and property lines.
2. An adequate drainage system shall be provided to convey storm water run off, originating on or crossing the premises, such that the run-off follows as much as feasible, the natural pattern of the run-off prior to the excavation and such that it does not adversely affect neighboring property owners.

- C. If spoil or topsoil removed for construction of a pond is to be sold to outside parties, the owner must also comply with Special Permit criteria for Excavation and Mining operations (See Section 722 and 723)

SECTION 770 PUBLIC AND SEMI-PUBLIC USES

The Planning Board may approve a special use permit for public and semi-public uses of an institutional, health, educational, recreational, religious or cultural nature in any zoning district provided that the following standards and provisions are maintained:

A. Specifications for all uses

1. Minimum lot size: 30,000 square feet
2. Minimum lot frontage: 150 feet
3. If used for recreation purposes, as defined in this Local Law, Minimum Lot Size: One (1) acre; minimum lot frontage: 200 feet.
4. Landscaped areas at least 10 feet in width or other suitable screening, shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.
5. No structure or use shall be located within 15 feet of any adjacent property line
6. Entrance and exit points shall be from major or secondary roads.
7. Parking areas shall be provided to accommodate all expected users and shall not be within 10 feet of any property line.
8. One parking space per employee. One per 400 square foot.

B. General Requirements for Other Public & Semi-Public Uses

1. The application shall include a statement setting forth the details of the operation of the use.
2. The applicant shall provide evidence of approval, certificate of need, license or other similar document required to initiate or expand such a use from any and all appropriate regulating agencies.
3. The proposal shall meet the minimum area and yard requirements for such uses as specified in the Zoning Schedule.
4. The proposed use shall meet the minimum off-street parking and loading and unloading requirements of this Local Law as well as provisions for landscaping, buffering, signs and accessways.
5. The Planning Board, in considering the request for a special use permit, may impose conditions it deems necessary to protect the health, safety and public welfare of the Town.

C. Day Care Centers

1. Must have an active outdoor play area of 100 square feet per child.
2. Outdoor play areas shall be appropriately fenced in or otherwise protected from roads and nearby properties.
3. No outdoor play equipment may be placed within ten feet of any property line, fence, or structure.
4. Minimum parking shall be one (1) space per staff member, plus one (1) space per each eight (8) children.
5. The operator shall have a valid license from New York State.

C. Clubs

1. Minimum lot size: 30,000 square feet
Minimum lot frontage: 150 feet
2. Landscaping areas or screening adequate to protect adjacent properties and land uses shall be provided on all side and rear lot lines.
3. Minimum parking shall be one (1) per employee and one (1) per each three members.
4. Entrances and exit points shall be from major or secondary roads.

D. Cemeteries and Burial Grounds

1. Minimum lot sizes: 30,000 square feet
Minimum lot frontage: 150 feet
2. A landscape plan shall be prepared and approved by the Planning Board for regulating the introduction and care of lawns, plants, trees and shrubs within such cemeteries and burial grounds. Suitable screening or landscaping shall be provided for the entire length of any lot line adjacent to any residence or adjacent street.
3. No structure shall be located within 25 feet of any adjacent property line.
4. Entrance and exit points shall be from major or secondary roads.
5. Parking areas shall not be within 15 feet of any property line.

SECTION 775 SEASONAL DWELLING

The Planning Board may authorize a special use permit for a seasonal dwelling in the Agricultural/ Residential (AR) or Waterfront Residential (WR) Districts provided that all of the following standards are met.

- A. The lot shall comply to the minimum width, area and setbacks of the district in which it is located, except that in the Waterfront Residential (WR) District, a seasonal dwelling may be constructed on a lot of record held in single and separate ownership prior to the adoption of this Local Law, the size of which lot is not less than 4,000 square feet with a minimum width of 40 feet, without obtaining a variance to minimum lot size requirements, provided that it can meet the Health Department requirements for sewer and water..
- B. A Seasonal Dwelling may be located along any street or private road.
- C. Seasonal dwellings shall have a gross floor area of not less than 600 square feet measured at the floor and at a point where the vertical height is 5 or more feet and a minimum width of 20 feet. Dwellings with 900 square feet or more of habitable floor area shall meet the requirements for year-round dwellings.
- D. An occupancy permit shall not be issued for more than nine (9) consecutive months in any calendar year.
- E. An application for a seasonal dwelling permit must be accompanied by an approval from the Orleans County Health Department.
- F. To change the use from a seasonal dwelling to a regular residence status, all requirements of the district in which it is located must be complied with.

SECTION 780 RIDING STABLES

The Planning Board may approve a special use permit for the use of land and buildings for stables for the commercial boarding of horses or riding academies in the Agricultural/ Residential (AR) or General Business (GB) District provided that the following standards and provisions are maintained:

- A. No site preparation or construction shall commence nor shall existing structures be occupied until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.
- B. The permitted use may include any of the following:
 - 1. Storage of horse vans for conveying or vanning of horses as may be accessory to the principal use.
 - 2. Sale or rental of horses for use by public by the hour, day, month or year.

3. Rides on horses by the public.
 4. Rental of horse vans.
 5. Riding lessons to the public.
 6. Sale of horse supplies and/or equipment.
- C. The land devoted to this use shall not be less than ten (10) contiguous acres.
- D. One principal single family dwelling may be located on the land devoted to this use provided that it complies with the requirements for this Local Law. The land area on which the principal single family dwelling is located (minimum lot size of AR District) shall not be considered as part of the land "devoted to this use" as set forth in paragraph C above.
- E. The number of horses that may be boarded and/or trained at such property shall not exceed 25 horses for the first 10 acres of land devoted to this use, plus one horse for each additional half acre of land available for such purpose.
- F. The stable shall be located not less than 100 feet from any boundary line. The storage of manure shall be located on land not less than 200 feet from any boundary line. The Planning Board may require manure storage areas to be screened and/or buffered from adjacent areas.
- G. Any riding ring shall be at least 50 feet from any boundary line.
- H. Accessory buildings such as barns (not housing horses), sheds and the like, may be located on the land devoted to this use provided that they are set back a minimum of fifty (50) feet from the street line and from each boundary, and provided further that they are not used for the storage of manure.
- I. Structures on the land devoted to this use (not including the principal dwelling) shall not be in the aggregate cover more than five percent of the area of the land devoted to this use.
- J. No structure shall exceed 35 feet in height.
- K. Suitable and adequate off-street parking shall be provided in accordance with the requirements established by this Local Law and the Planning Board.
- L. Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property.
- M. The installation and use of exterior loudspeakers shall be conducted in such a manner as to minimize potential nuisances to adjacent properties.

SECTION 785 TELECOMMUNICATION FACILITY

The Planning Board may approve a special use permit for the use of land and buildings for a telecommunication facility in the Agricultural/ Residential (AR) District or the Light Industrial (LI) District, the Industrial (I) District provided that the following standards and provisions are maintained:

A. Purpose

The purpose of these supplemental regulations is to promote health, safety, and the general welfare of the residents of the Town of Shelby; to provide standards for safe provision of telecommunications consistent with applicable federal and state regulations; to minimize the total 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; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.

B. General Criteria

No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a Telecommunications Facility shall be authorized by the Planning Board unless it finds that such Telecommunications Facility:

1. Is necessary to meet current or expected demands for service;
2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
3. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
4. Complies with all other requirements of this Local Law, unless expressly superseded herein;
5. Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunications Facility;
6. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one (1) other telecommunication service provider. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use shall not require a new or modified special permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan review.

C. Co-Location

The shared use of existing Telecommunications Facilities or other structures shall be preferred to the construction of new Facilities. Any Special Permit applications, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within (share) an existing Telecommunication Facility or upon an existing structure. The application shall include an adequate inventory report specifying existing Telecommunication Facility sites and structures exceeding seventy-five percent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report shall contain an evaluation of opportunities for shared use an alternative to the proposed location.

The applicant must demonstrate that the proposed Telecommunication Facility cannot be accommodated on existing Telecommunications Facility sites in the inventory due to one (1) or more of the following reasons:

1. The planned equipment would exceed the structural capacity of existing and approved Telecommunication Facilities or other structures, considering existing and planned use for those facilities;
2. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented;
3. Existing or approved Telecommunications Facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
4. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
5. The property owner or owner of the existing Telecommunication Facility or other structure refuses to allow such co-location.

D. Dimensional Standards

1. A fall zone around any tower constructed as part of a Telecommunications Facility must have a radius at least equal to the height of the tower and any antennae(s) attached upon its zenith. The entire fall zone may not include public roads and must be located on 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. If the Facility is attached to an existing structure, relief may be granted by specific permission of the Zoning Board of Appeals on a case-by-case basis.
2. All Telecommunications Facilities shall be located on a single parcel.
3. All Telecommunications Facilities shall comply with the setback standards of the underlying zoning district. The size of the leased or owned lot shall be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose

of construction of a tower as part of Telecommunications Facility shall not result in the creation of a non-conforming lot.

4. The frontage requirement of the underlying zoning district shall not apply, provided the Telecommunications Facility is not proposed on a parcel to be partitioned specifically for the Facility and/or is designed for occupancy by staff. In the absence of required frontage, an accessway for service vehicles - either through easement, lease or ownership - shall be in accord with paragraph G herein.

E. Lighting and Marking

1. Towers shall not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
2. Notwithstanding the preceding paragraph 1, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety.

F. Appearance and Buffering

1. 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, and balloons is prohibited.
2. The facility shall have the least practical visual effect on the environment, as determined by the Planning Board. Any tower that is not subject to FAA marking, pursuant to paragraphs E.1. and E.2. herein, shall otherwise:
 - 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 Planning 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.
3. Accessory structures shall maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
4. The Planning Board may require a State Environmental Quality Review (SEQR) Full EAF (Environmental Assessment Form) for proposed Facilities at key viewpoints in the community. A Visual Environmental Assessment Form (Visual EAF), may be required as an addendum to either the Full or Short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
5. The Planning Board shall require that the Facility have appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor

points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening shall include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.

6. Equipment or vehicles not used in direct support, renovations, additions or repair of any Telecommunications Facility shall not be stored or parked on the Facility site.

G. Access and Parking

1. Accessways shall make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for Telecommunications Facilities must be at least twenty (20), but no more than thirty (30) ft. wide, and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) shall be centered within accessways and shall not comprise more than 60% 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 turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

H. Security

1. Towers, anchor points of guyed towers, and accessory structures shall each be surrounded by fencing at least eight (8) ft. in height, the top foot of which may, at the discretion of the Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site.
2. Motion activated or staff activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
3. There shall be no permanent climbing pegs within fifteen (15) feet off 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. Site plans for all Telecommunications Facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility shall be built, operated and maintained to acceptable industry standards including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
2. Every Facility shall be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report shall be submitted to the municipal Zoning Enforcement Officer.
3. A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification, for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.
4. The municipality, at the expense of the applicant, may employ its own consulting assistance to review the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

J. Removal

1. At the time of submittal of the application of a special use permit for a Telecommunications Facility, the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower(s) dedicated solely for use within a Telecommunications Facility if such Facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said Facility, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the Telecommunications Facility and property restoration, with the municipality as the assignee, in an amount approved by the Planning Board, but not less than one hundred thousand (\$100,000) dollars.
3. At time of renewal or modification of the Special Use Permit, the Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Telecommunications Facility and property restoration.

ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT

SECTION 800 ENFORCEMENT

The duty of administering and enforcing the provisions of this Local Law is hereby conferred upon the Zoning Enforcement Officer (ZEO), who shall be appointed by the Town Board and shall carry out any directives from the Board relative to the duties of the position set forth below. The ZEO shall receive such compensation as the Town Board shall determine.

SECTION 801 DUTIES AND PROCEDURES OF THE ZONING ENFORCEMENT OFFICER

A. Administer the Zoning Law

1. The Zoning Enforcement Officer shall review all applications for zoning permits and, if the minimum requirements of this Local Law are met, the Officer shall issue a permit.
2. If the applicants plans do not meet the Zoning requirements, the Officer must deny the permit. The Zoning Enforcement Officer may not use discretionary judgment. The Officer must enforce the "Letter of the Law."

B. Referral to the Zoning Board of Appeals

An applicant, after being denied a building permit, may appeal the Zoning Officer's findings to the Zoning Board of Appeals (ZBA) for an interpretation or a variance. Should an appeal be requested, the Zoning Enforcement Officer shall notify the Secretary of the ZBA of the request and forward all necessary supporting information.

A. Referral to Town Planning Board

Any application for a special permit, change of zoning district or use that requires Site Plan Review shall be forwarded by the Zoning Enforcement Officer to the Chairperson of the Town Planning Board of the request and forward all necessary supporting information.

B. Cite Zoning Violations

1. For any plans, construction, building, use or premise found in violation of this Local Law, the Zoning Enforcement Officer shall order the responsible party, in writing, to remedy the conditions. He shall have the authority to commence proceedings to punish violations pursuant to Sections 108 and 109 of this Local Law.
2. The Zoning Enforcement Officer may enter any premise or building during reasonable hours in the course of his duties in accordance with State Law after due written notice has been given.

C. Report to Town Board

A monthly report to the Town Board describing and enumerating actions taken and permits issued shall be given.

D. Public Record

The Zoning Enforcement Officer shall file all permit actions with the Town Clerk.

G. Upon written direction from the Planning Board, the Zoning Enforcement Officer shall issue special use permits. Upon approval of a variance by the Zoning Board of Appeals, the Zoning Enforcement Officer shall be empowered to issue the necessary permits with the specific conditions to be imposed.

H. The Zoning Enforcement Officer shall be authorized and empowered to issue appearance tickets pursuant to the New York State Criminal Procedure Law.

SECTION 810 CREATION, APPOINTMENT AND ORGANIZATION OF PLANNING BOARD

A. Creation and Appointment

1. The Town Board authorizes the appointment of a five member Planning Board as more fully described in Town Law Section 271. Terms of all Planning Board members shall be staggered as the law requires.
2. In making such appointments, the Town Board may require Planning Board members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training.

B. Officer, Rules, Expenses

1. The Town Board may select a Chairman of the Planning Board, or on failure to do so, the Planning Board shall elect a chairman from its own members.
2. The Planning Board may adopt rules or bylaws for its operations.
3. The Town Board shall provide an appropriation to the Planning Board to cover necessary expenses including the means for the Planning Board to maintain a written record of its meetings and public hearings.

C. Functions of the Planning Board

1. To prepare, review and/or recommend revisions to the comprehensive plan for the development of the Town as provided under Section 272-a of Town Law and/or Town Board Resolution.
2. To review and comment on all proposed zoning amendments before referral to the County Planning Board
3. Conduct Site Plan Review as authorized by Town Law 274-A and prescribed in Article X of this Local Law
4. Review and grant or deny special permits as authorized by Article IX.
5. Render assistance to the Zoning Board of Appeals on its request.
6. Research and report on any matter referred to it by the Town Board.
7. Make investigations, maps, reports, and recommendations in any matter related to Planning and Development as it seems desirable providing expenditures of the Board do not exceed appropriations.
8. Authority to modify provisions of the zoning Local Law simultaneously with plot approval in accordance with Town Law Section 278.
9. All such powers and duties as are conferred upon Town Planning Boards and subject to the limitations set forth in Sections 272, 272-a, 274, 274-a, 274-b, 276, 277, and 278, of the New York State Town Law, as the same may be amended, modified, or changed from time to time, or any sections subsequently adopted pertaining to Planning Boards.

D. County Planning Board Representatives

The Town shall nominate a member of the Planning Board to serve on the County Planning Board when vacancies occur. Appointment to the County Planning Board is made by the County Legislature.

SECTION 820 ZONING BOARD OF APPEALS

A. Appointment of Zoning Board of Appeals

1. Pursuant to Section 267 of Town Law, there shall be a Zoning Board of Appeals consisting of five (5) members holding staggered five (5) year terms appointed by the Town Board. The Town Board shall appoint the ZBA's Chairman.
2. In making such appointments, the Town Board may require Board of Appeals members to complete training and continuing education courses in accordance with any local requirements for the training of such members. The Town Board may reimburse the members for appropriate expenses incurred in obtaining training.

B. Officers, Rules and Expenses

1. The ZBA may adopt rules or bylaws for its operation.
2. The Town Board shall provide an appropriation to ZBA to cover necessary expenses including the means for the ZBA to maintain a written record of its meetings and public hearings.
3. All decisions shall be by a majority vote of the membership (three) except in those cases of a County Planning Board disapproval referral recommendation. In such cases a majority plus one vote (four) shall be required for any decision.

C. Functions of the Zoning Board of Appeals.

1. Interpretation.

Upon appeal from a decision by the Zoning Enforcement Officer, the ZBA shall decide any question involving interpretation of any provision of this Local Law.

2. Appeals for Variances

Upon denial of zoning permit by the Zoning Enforcement Officer, the ZBA shall hear requests for variances as more fully described in Section 834 of this Local Law.

D. Appeals for Variance through the Zoning Board of Appeals (ZBA)

Unless otherwise provided for, all requests for variances shall be made to the ZBA after denial of a zoning permit by the Zoning Enforcement Officer.

E. Orders, Requirements, Decisions, Interpretations, Determinations

The ZBA may reverse or affirm, wholly or partly, or may modify order, requirement, decision, interpretation, or determination appealed from, and shall make such order, requirement, decision, interpretation, or determination as in its opinion ought to have been made in the matter by the Zoning Enforcement Officer and to that end shall have all the powers of the Zoning Enforcement Officer.

F. Area or Dimensional Variances.

1. The ZBA shall have the power, upon an appeal from a decision or determination of the Zoning Enforcement Officer, to grant area variances as defined herein.
2. 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: (1) 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; 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; 3) Whether the requested area variance is substantial; 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and 5) 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.
3. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health safety and welfare of the community.
4. The ZBA shall, in the granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the Zoning Local Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

G. Area Variances Procedures

Area variances shall be granted by the procedure established in Section 834

H Use Variances

1. The ZBA, on appeal from the decision or determination of the Zoning Enforcement Officer shall have the power to grant use variances as defined herein.
2. No such use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that (1) under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

3. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. The ZBA shall, in the granting of a use variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and/or the period of time such variance shall be in effect. Such condition shall be consistent with the spirit and intent of the Zoning Local Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**SECTION 834 PROCEDURES FOR PROCESSING A VARIANCE
APPLICATION**

- A. All applications for variances shall be in writing on forms established by the ZBA and are available from the Zoning Enforcement Officer.
- B. Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.
- C. Agricultural Data Statement
 1. Any application for a variance that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district, shall include an Agricultural Data Statement.
 2. The Zoning Board of Appeals shall evaluate and consider the Agricultural Data Statement in its review of the possible impacts on the proposed agricultural district.
 3. Upon the receipt of such application by the Zoning Board of Appeals, the clerk of such board shall send, through registered mail, written notice of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location. The cost of mailing said notice will be borne by the applicant.
 4. An Agricultural Data Statement shall include the name and address of the applicant, a description of the proposed project and its location, the agricultural district which land contains farm operations and is located within 500 feet of the boundary upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the Agricultural Data Statement.
- D. Upon receipt of the completed application the ZBA shall:
 1. Schedule a public hearing.
 2. Arrange publication of notice of the public hearing as described in Section 835

3. Refer the application to the County Planning Board as required by General Municipal Law Section 239, if required.
 4. Determine whether a draft Environmental Impact Statement should be required.
- C. Within 62 days of the public hearing, the ZBA shall render a decision. If the matter was referred to the County Planning Board, a copy of the ZBA's findings and decision must be sent to the County Planning Board.

SECTION 835 NOTICE OF PUBLIC HEARING

- A. Public Hearings shall be held scheduled within 62 days from the date of ZBA receipt of the appeal
- B. Notice of the public hearing shall be published in the official newspaper of the Town at least 5 days prior to the hearing. Such notice shall briefly describe the nature of the appeal and the time and place of the hearing.
- C. The Zoning Board of Appeals may require the applicant to place a sign on the property for which the variance is requested, indicating the date and time of the public hearing.
- D. A copy of the public notice may be sent to adjacent property owners within the Town, but failure to send such notice shall not affect the jurisdiction of the Board or the legality of this decision.
- E. Public records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the secretary of the Board.

SECTION 836 MEETINGS OF THE ZONING BOARD OF APPEALS

- A. The Zoning Board of Appeals shall hold meetings at the call of the Chairperson, or the request of 3 or more members.
- B. The presence of the three (3) members shall constitute a quorum for the conduct of business before the Board.
- C. The presence of three (3) members of the Board shall be necessary to act on the application for any variance or to decide upon any other matter brought before the Board, unless otherwise stipulated in this Local Law.
- D. All votes of the Zoning Board of Appeals shall be taken by roll call.
- E. In accordance with General Municipal Law, Section 908, a member of the Zoning Board of Appeals having a conflict of interest shall abstain from any discussion or voting on that matter.
- F. The Zoning Board of Appeals may request and obtain any advice or opinions on the law relating to any matter before the Board from the town attorney, and require the town attorney to attend its meetings.

- G. The Zoning Board of Appeals may require the Zoning Enforcement Officer to attend its meetings to present any facts relating to any matter before the Board.
- H. All meetings of the Zoning Board of Appeals shall be open to the public.
- I. The Board of Appeals shall keep minutes of all its meetings. The Town Board shall provide a secretary for the Zoning Board of Appeals.
- J. The Zoning Board of Appeals shall make a factual record of all its proceedings including the reading of the case, public hearing, deliberation, voting and decisions of the Board. These factual records shall be taken by stenographic and/or tape recorder means and shall be accurate but not necessarily a verbatim transcript, but may be in narrative form. The factual record shall be taken by the secretary to the Board.

SECTION 840 - REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD

- A. The Zoning Enabling Laws require that any of the following local zoning actions must be referred to the County Planning Board prior to action by the local Board, unless such actions are exempted from referral by an agreement between the County and the Town. Unless exempted by mutual agreement between the County and the Town: any proposal for a special permit, variance, site plan approval, or change in the zoning law text or map (rezoning or amending the zoning law) which would affect real property lying within a distance of 500 feet from the boundary of:

- any county
- any town.
- any village.
- any existing or proposed county or state park.
- any right-of-way of any county or state road or parkway,
- any stream or canal owned by the county.
- any existing or proposed county or state owned land on which a public building or institution is situated

must be referred to the County Planning Board who shall have 30 days from date of County receipt to take action on the matter. By mutual agreement of the county and the municipality such 30 day period may be extended in special cases.

B. EFFECT OF COUNTY PLANNING BOARD REVIEW

1. If the county approves a referral then the local board's decision is governed by a majority vote.
2. If the county disapproves or approves subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one vote.

C. REPORT ON FINAL LOCAL ACTION

The local board must send a copy of its final decision and reasons for such decision on a county referral case to the County Planning Board within 7 days after the local decision is reached.

ARTICLE IX: SPECIAL USE PERMITS AND PROCEDURES

SECTION 900 PURPOSE

It is the intent of this Local Law to use Special Use Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Special Use Permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

SECTION 901 ADMINISTRATION

In accordance with Town Law, Section 274-b, the Town Planning Board will administer the review and granting of Special Permits.

SECTION 902 PROCEDURE

- A. The Zoning Enforcement Officer shall refer the completed special permit application to the Town Planning Board upon receiving a completed application.

If a variance would be required from the Zoning Board of Appeals in connection with the proposed use of the premises, the Zoning Enforcement Officer shall refer a copy of the application to the Zoning Board of Appeals. The Zoning Enforcement Officer shall notify the applicant of the need for such variance.

All applications shall be signed by the legal owner of the premises for which the Special Permit is sought.

- B. At its next regular or special meeting, the Town Planning Board shall designate a public hearing date within a reasonable period of time, not to exceed 62 days from the date the application was made.
- C. The Town Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the Official Newspaper. Notices shall be sent to adjacent property owners and/or a sign shall be placed on the premises indicating the date of the public hearing.
- D. The Notice of the public hearing shall be sent and published at least five (5) days prior to the date of public hearing and shall include sufficient information so as to identify the property involved and the nature of the proposed action.
- E. The Town Planning Board shall make a factual record of all its proceedings involving the granting of a Special Permit. The decision of the Planning Board shall contain the reasons for its decision.
- F. The Town Planning Board shall render its decision, either approving, approving with conditions, or denying, within 62 days after the hearing, unless an extension is mutually agreed upon.

- G. Each application for a special permit shall be accompanied by a proposed plan showing the information required for site plan approval in Article X.
- H. Each special permit application must also receive site plan approval before the special permit may be granted.
- I. Agricultural Data Statement
 - 5. Any application for a special use permit that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district, shall include an Agricultural Data Statement.
 - 6. The Planning Board shall evaluate and consider the Agricultural Data Statement in its review of the possible impacts of the proposed agricultural district.
 - 7. Upon the receipt of such application by the Planning Board, the clerk of such board shall send, through registered mail, written notice of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location. The cost of mailing said notice will be borne by the applicant.
 - 8. An Agricultural Data Statement shall include the name and address of the applicant, a description of the proposed project and its location, the agricultural district which land contains farm operations and is located within 500 feet of the boundary upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the Agricultural Data Statement.
- J. If any Special Permit issued under this Local Law shall remain unexercised for a period of one (1) year from the date of issuance such permit shall be deemed revoked and the use shall not be commenced until another new application shall have been made to the Planning Board therefore and approved. The applicant may apply to the Planning Board for an extension of up to one year.
- K. If any use permitted by a Special Permit shall be discontinued for a period of one (1) year, such permit shall be deemed revoked and the use shall not be continued until another new application shall have been made to the Planning Board therefore and approved.

SECTION 903 FINDINGS

- A. The Town Planning Board may grant a special use permit for uses described in Article VII provided that all requirements and conditions set forth in that Article are complied with.
- B. The Planning Board shall make written findings for each special use permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision. Compliance with the requirements of Article VII shall be substantiated.

- C. The following considerations shall apply to all special use permit applications:
1. Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
 2. Off-street parking and loading areas where required, and the noise, glare or odor effects of the special use permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed special permit use.
 3. Refuse and service areas.
 4. Utilities as appropriate, with reference to locations, availability and compatibility.
 5. Storm drainage, including potential impact on downstream properties.
 6. Screening and buffering, with reference to type, dimensions and character.
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
 8. Required yards and other open space.
 9. General compatibility with adjacent properties and other properties in the district.
- D. The Planning Board may impose additional conditions and requirements in order to ensure that the Special Use Permit will be consistent with the requirements of Article VII. Such conditions and requirements shall be clearly documented in the findings and reflected on the approved Site Plan for the special use.
- E. The Planning Board is hereby authorized to waive any of the requirements for Special Permits in this Section or those in Article IX (Special Permit Criteria), if it finds that such requirements are not needed to protect public health, safety or general welfare, or are inappropriate to the particular special use permit.
- F. At least ten (10) days prior to the date of the public hearing, the Zoning Enforcement Officer shall, on behalf of the Planning Board, transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law.
- G. Each application for a special use permit shall be accompanied by a proposed site plan showing the information required for site plan approval as described in Article X of this Local Law.
- H. Public Hearing
1. Prior to taking action on an application for a special use permit, the Planning Board shall conduct a public hearing on the proposed request. Said hearing shall be

conducted within 62 days following the receipt of a complete application and supporting documents from the Zoning Enforcement Officer.

2. The Planning Board shall send a notice of the public hearing to the applicant and publish a notice of the public hearing in the official newspaper, one of general circulation in the Town.
 3. The notice of the public hearing shall be sent and published at least five (5) calendar days prior to the date of the public hearing. Such notice shall include sufficient information so as to identify the property involved and the nature of the proposed action.
- I. If the application is required to be transmitted to the County Planning Board under Article 12-B, 239-m of the General Municipal Law, the Planning Board shall not act within the first thirty (30) days following the referral of the application to the County Planning Board unless said Board provides a written reply to the Town within the thirty (30) day period.
 - J. The Planning Board shall render its decision, either approving, approving with conditions, or denying the special use permit, within 62 days after the public hearing unless an extension is mutually agreed upon by the Planning Board and the applicant.
 - K. In approving an application, the Planning Board may impose any modifications or conditions it deems necessary to conform with the goals and objectives of the Town's Comprehensive Plan and its principles of land use and development, and to protect the health, safety or general welfare of the public.
 - L. If an application is approved by the Planning Board, the Zoning Enforcement Officer shall be furnished with a copy of the approving resolution of the Planning Board and he shall issue the permit applied for in accordance with the conditions imposed by the Board.
 - M. If any application is disapproved by the Planning Board, the reasons for such denial shall be set forth in the Board resolution and a copy of such resolution shall be transmitted to the Zoning Enforcement Officer. The Zoning Enforcement Officer shall deny the application accordingly by providing the applicant with a copy of the Board's reasons for disapproval.
 - N. The Zoning Enforcement Officer shall inspect the premises of a use authorized and approved with a special use permit not less than one time each calendar year. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Planning Board in approving the permit. If the Zoning Enforcement Officer shall determine that the use is not being operated in compliance with the permit, the Zoning Enforcement Officer find the owner and operator of the use in violation of the Zoning Local Law. If such violation is not corrected, in accordance with the requirements of this Local Law, the Zoning Officer shall initiate enforcement action. If the violation is not corrected within 90 days of the annual inspection, the Planning Board may nullify the Special Use Permit and set forth the procedures and requirements for re-establishing the use. The use may not be operated until a new application is submitted and approved.

ARTICLE X: SITE PLAN REVIEW

SECTION 1000 PURPOSE

The intent of this section is to set forth additional general standards applying to certain uses and activities. The nature of these uses and activities require special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development consistent with the objectives of this Local Law.

SECTION 1001 APPLICATIONS

- A. Site plan review shall be required for all applications for zoning permits, zoning variances, or special use permits, except those for one and two family dwellings, their permitted accessory uses, or any addition to a single family dwellings.
- B. Residential development within a Historic District must also have site plan approval.
- C. All development (including residential) within the General Business (B) Districts, Industrial (I) District, Light Industrial (LI), Historic District or Waterfront Development District must also have a site plan approval.
- D. No zoning permit shall be issued until all the requirements of this Article and all other applicable provisions of the Local Law have been met.

SECTION 1002 PROCEDURE

- A. Each application for Site Plan Review shall be referred to the Town Planning Board.
 - 1. The application shall be made to the Planning Board by filing it with the Town Clerk or the Zoning Enforcement Officer.
 - 2. The Zoning Enforcement Officer shall present it to the Planning Board at their next regularly scheduled meeting.
 - 3. The applicant should attend the Planning Board meeting to answer questions concerning the application.
- B. Within 62 days of receipt of the application the Planning Board shall render a decision to approve with conditions, or deny, and forward the decisions to the Zoning Enforcement Officer. Any extension of this 62 day period may be granted upon consent of both the applicant and the Town Planning Board. If the Planning Board fails to act within said 62 day period or extension that has been granted, the site plan shall be considered approved.
- C. Agricultural Data Statement
 - 1. Any application for a site plan review of a project that would occur on property within an agricultural district containing a farm operation or on property with boundaries

within 500 feet of a farm operation located in an agricultural district, shall include an Agricultural Data Statement.

2. The Planning Board shall evaluate and consider the Agricultural Data Statement in its review of the possible impacts on the proposed agricultural district.
 3. Upon the receipt of such application by the Planning Board, the clerk of such board shall send, through registered mail, written notice of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location. The cost of mailing said notice will be borne by the applicant.
 4. An Agricultural Data Statement shall include the name and address of the applicant, a description of the proposed project and its location, the agricultural district which land contains farm operations and is located within 500 feet of the boundary upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the Agricultural Data Statement.
- D. The Planning Board is hereby authorized to waive any of the requirements for Site Plan Review in this Section, if it finds that such requirements are not needed to protect public health, safety or general welfare, or are inappropriate to the particular site plan.
- E. A full written record of the Planning Board minutes and decisions together with all documents pertaining to the case shall be filed in the Office of the Town Clerk and shall be mailed to the applicant.

SECTION 1003 PREAPPLICATION CONFERENCE

A pre-application conference may be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the site plan.

SECTION 1004 APPLICATION FOR SITE PLAN APPROVAL

An application for site plan approval shall be made in writing to the Zoning Enforcement Officer and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information if necessary to complete its review.

- A. Plan checklist for all site plans:
1. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
 2. North arrow, scale and date
 3. Boundaries of the property plotted to scale.
 4. Existing watercourse and bodies of water.

5. Location of any slopes of 5% or greater.
 6. Proposed grading and drainage.
 7. Location, proposed use and height of all buildings and site improvements including culverts, drains, retaining walls and fences.
 8. Location, design and construction materials of all parking and truck loading areas, showing points of entry and exit from the site.
 9. Location of outdoor storage, if any.
 10. Description of the method of sewage disposal and location of the facilities.
 11. Identification of water source: if well, locate.
 12. Location, size and design and construction materials of all proposed signs.
 13. Location and proposed development of all buffer areas, including existing vegetation cover.
 14. Location and design of outdoor lighting facilities
 15. General landscaping plan.
- B. As necessary, the Planning Board may require the following:
1. Provision for pedestrian access if necessary.
 2. Location of fire lanes and hydrants.
 3. Designation of the amount of building area proposed for retail sales or similar commercial activity.
 4. Other elements integral to the proposed development as considered necessary by the Planning Board.

SECTION 1105 PLANNING BOARD REVIEW OF SITE PLAN

The Planning Board's review of the site plan shall include, as appropriate, the following:

- A. General Considerations
1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls, and including the maximum feasible redesign of private roads to conform to public access and rights of way.

2. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
5. Adequacy of storm-water and drainage facilities.
6. Adequacy of water supply and sewage disposal facilities.
7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
8. In the case of apartment complex or to other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.
9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
10. Protection of solar access on adjacent or neighboring properties.
11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
12. Special attention to the adequacy of structures, road-ways and landscaping in areas with susceptibility to ponding, flooding and or erosion.
13. Special attention to the productive use and access with "backlot" areas, indicating present and future intended uses
14. Consistency with the general intent of the town's comprehensive Master Planning Process.

B. Consultant Review

The Planning Board may consult with the town building inspector, fire commissioners, highway departments, county planning department, and other local county officials, in addition to representatives of federal and state agencies including, but not limited to, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

C. Public Hearing

1. The Planning Board may conduct a public hearing of the site plan. If a public hearing is considered desirable by a majority of the Planning Board, such public hearing shall be conducted within sixty-two (62) days of the receipt of the

application and shall be advertised in the official newspaper of the town at least five (5) days before the public hearing. Decision shall be rendered within sixty-two (62) days of the public hearing.

2. If a public hearing is scheduled, the Planning Board may notify adjacent property owners and may require the applicant to place a sign on the property that indicates the date of the public hearing.

**Western Orleans Zoning
Table of Uses**

RESIDENTIAL USES	HA	A/R	RR	GB	LI	I	WR	WD (Yates)	WDO	A
Single Family Dwellings	P	P	P	P			P	P		
Two Family Dwellings	P	P	P	P			P	P		
Seasonal Dwelling		SP					SP	SP		
Multiple Family Dwellings	SP		SP	SP			SP	SP		
Bed & Breakfast	SP	SP	SP	SP			SP	SP		
Manufactured Home Parks		SP	SP (Yates)							
Family Day Care Home	A	A	A	A						
Home Occupation	A	A	A	A						
Home Business	SP	SP	SP	SP				SP		
AGRICULTURE										
	HA	A/R	RR	GB	LI	I	WR	WD (Yates)	WDO	A
Agriculture, except for animal husbandry	P	P	P	P	P	P	P			
Animal Husbandry		P	P	P	P	P	N			
Agricultural Processing or Distribution Facility		SP		SP	P	P		SP		
Ponds		SP	SP		SP (Yates)	SP (Yates)	SP	SP		
Farm Market	SP	SP		P						
Farm Labor Camp		SP								
Farm Produce Stand	P	P	A	P						
PUBLIC/ UTILITIES										
	HA	A/R	RR	GB	LI	I	WR	WD	WDO	A
Private Airport		SP								
Public Park or Recreation Area		P	P					P	P	
Public and Semi-Public Buildings and Grounds (includes churches, parks, schools, public safety buildings, government offices, cemeteries, day care centers, nursing homes)	SP	SP	SP	SP				SP	SP	
Essential Services & Public Utilities	SP	SP	SP	SP	P	P	SP	SP		
Telecommunications Facilities	SP (Yates)	SP	SP (Yates)	SP	SP	SP				
Flood and erosion protection structures							P	P	P	

Western Orleans Zoning

Table of Uses

BUSINESS	HA	A/R	RR	GB	LI	I	WR	WD	WDO	A
Neighborhood Business	SP			P				P	SP	
Professional Offices	SP			P				P		
Retail Business				P				P		
Service Business				P				P		
General Business				P						
Drive-In Business				SP						
Restaurants and Taverns				P				P	SP	
Hotel/ Motel				P				SP	SP	
Gasoline Station	SP			SP						
Motor Vehicle Repair	SP	SP (Shelby)		SP	P	P				
Motor Vehicle Sales/ Rental	SP (Yates)			SP						
Funeral Homes				P						
Veterinarian Offices / Animal Hospitals		SP		SP						
Kennels		SP								
Commercial storage (self-storage)				P	P	P				
Custom shops				P						
Assembly, processing				P						
Printing				P						
Tourist facilities								P		
Marine service, repair, rental and accessories; Fishing and tackle								P		
Adult Business										P
RECREATION AND ENTERTAINMENT	HA	A/R	RR	GB	LI	I	WR	WD	WDO	A
Campground		SP						SP	SP	
Indoor Commercial Recreation (Bowling alleys, health clubs, video arcade, etc.)				P						
Outdoor Commercial Recreation (Golf Course, Gun Club, Riding Stable, etc.)		SP	SP	SP						
Conference/ Resort complex		SP							SP	
Marinas/Boat Launch								P	SP	
Charter Boat Service								P	SP	

Western Orleans Zoning

Table of Uses

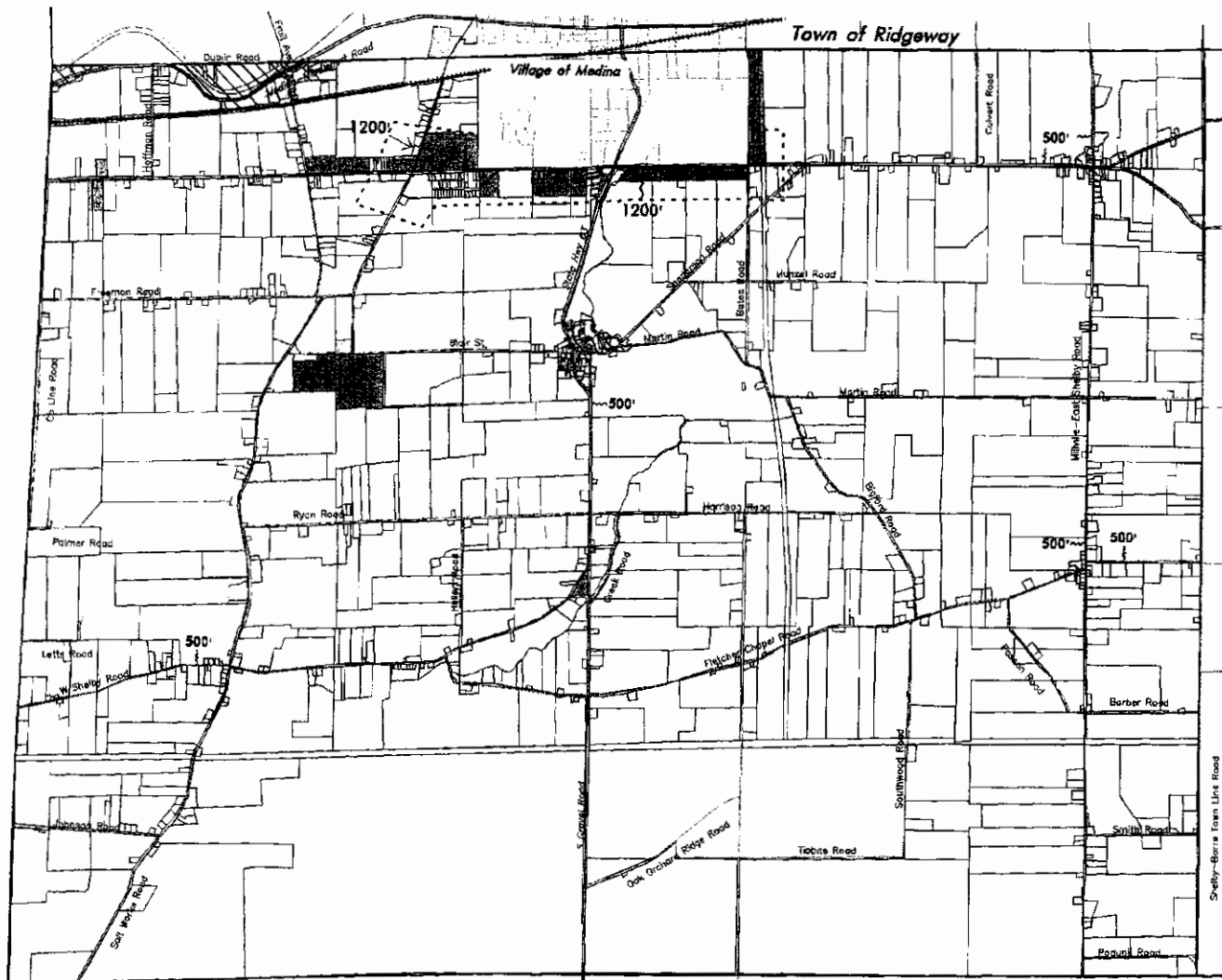
INDUSTRIAL/MANUFACTURING:/ STORAGE	HA	A/R	RR	GB	LI	I	WR	WD	WDO	A
Custom Shops (printing, heating, plumbing, & woodworking)				P	P	P				
Production of goods to be sold on the premises				P	P	P				
Warehousing/Storage					P	P				
Agricultural Product Processing, Distribution and Packaging		SP			P	P				
Precision Machining / Tool and Die Work					P	P				
Manufacture of Electric, Electronic or Optical Devices					P	P				
Manufacture of Pharmaceuticals and Cosmetics					P	P				
Manufacturing, assembling, fabrication or packaging of previously prepared materials					P	P				
Newspaper Printing					P	P				
Junk Yard		SP								
Administrative Offices					P	P				
Scientific and Engineering Research and Development Laboratories					P	P				
Bulk Storage of Automotive and Domestic Fuels										
Excavation and Mining		SP				SP (Shelby)				
Heavy Industry						SP				

Zoning Schedule

	Hamlet (HA)	Agricultural/ Residential (AR)	Rural Residential (RR)	General Business (GB)	Light Industrial (LI)	Industrial (I)	Yates only	
							Waterfront Residential (WR)	Waterfront Development (WD)
Minimum Setback Requirements:								
Front (roadside) (1):								
Private lane	NA	NA	NA	NA	NA	NA	25	NA
Town Road	35	75	75	75	75	75	35	50
State or County Highway	50	75	75	75	75	75	50	75
Side (feet):								
Principal	15	30	30	30	50	50	15	15
Accessory	15	30	30	30	50	50	10	15
Rear (feet):								
Principal	30	30	30	50	50	50	20	20
Accessory	5	30	30	50	50	50	10	20
Lot Width (feet):	125	150	150	150	150	150	100	100
	150 (Ridgeway)							
Road Frontage (feet):	125	150	150	150	150	150	100	100
	150 (Ridgeway)							
Minimum Lot Size	25,000 sq. ft.	30,000 sq. ft.	30,000 sq. ft.	30,000 sq. ft.	1 acre	1 acre	30,000 sq. ft.	30,000 sq. ft.
Building Height (feet): (2)	35	35	35	35	35	35	35	35
Maximum Building Coverage:	30%	30%	30%	30%	30%	35%	30%	30%
Minimum "Green Space":	20%	25%	25%	25%	25%	25%	25%	25%









(1) Front setbacks are to be measured from the right-of-way. If measured from the center of the roadway, add 50 feet for State highways, 40 feet for County highways, and 30 feet for Town roads.

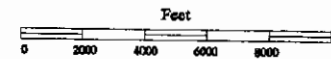
(2) Height limits do not apply to agricultural storage facilities and airport structures.



Zoning Map Town of Shelby

Zoning Districts

-  Ag Residential
-  Rural Residential
-  Hamlet
-  General Business
-  Light Industrial
-  Industrial
-  Maple Ridge Overlay District
-  Waterfront Development Overlay



Stuart I. Brown Associates, Inc.

NZNG-SHL
09/09/03

ADOPTED: 2003

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

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

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2003 of the ~~(County) (City) (Town) (Village)~~ of Shelby was duly passed by the Town Board on September 10 2003, in accordance with
(Name of Legislative Body)
the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 19____, and was
(approved)
(Name of Legislative Body)
(not disapproved) (repassed after disapproval) by the _____ and was deemed
(Elective Chief Executive Officer*)
duly adopted on _____ 19____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)
(Name of Legislative Body)
(not disapproved) (repassed after disapproval) by the _____
(Elective Chief Executive Officer*)
on _____ 19____. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 19____, in accordance with the applicable provisions of law.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of ~~19~~____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ ~~19~~____, and was
(Name of Legislative Body)
(approved) (not disapproved) (repassed after disapproval) by the _____
(Elective Chief Executive Officer*)
on _____ ~~19~~____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ ~~19~~____, in accordance with the applicable provisions of law.

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

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 19____, became operative.

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

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

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

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

Geraldine V. Zinkiewicz
Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

(SEAL)

Date: September 22, 2003
(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF ORLEANS

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

[Signature]
Signature
Town Attorney
Title

County
City of Shelby
Town
Village

Date: September 22, 2003