
Town of Pembroke, New York

Zoning Law

As Amended through August 12th, 2015

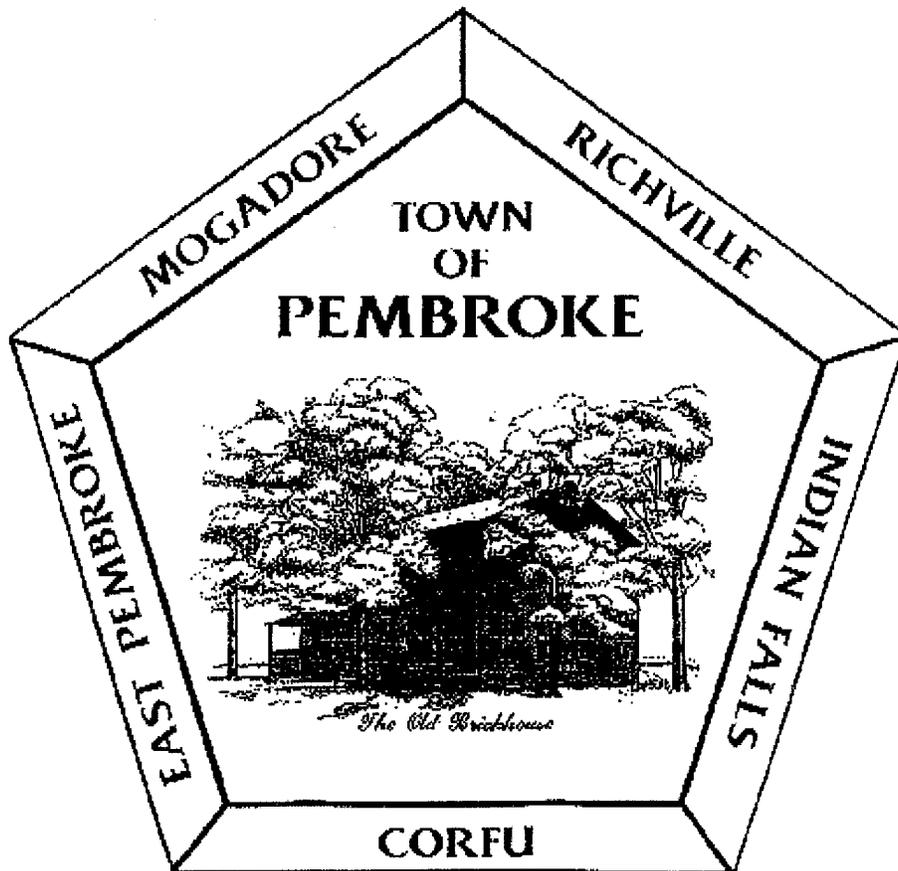


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TOWN OF PEMBROKE ZONING LAW

JUNE 14, 1995

(As Amended Through 8)

The Zoning Law of the Town of Pembroke known as Local Law No. 1 of January 9, 1991, as thereafter amended by Local Law No.3 of 1992, Local Law No.2 of 1993, Local Law No. 1 of 1995, Local Law No. 2 of 1995, Local Law No. 2 of 1996, Local Law No. 1 of 1997, Local Law No. 1 of 2000, Local Law No. 4 of 2000, Local Law No. 1 of 2002, Local Law No. 1 of 2003, Local Law No.2 of 2003, Local Law No. 1 of 2005, Local Law No.2 of 2005, Local Law No.3 of 2005, Local Law No.2 of 2006, Local Law No.4 of 2006, Local Law No.5 of 2006, Local Law No.2 of 2007, Local Law No.3 of 2007, Local Law No.4 of 2007, Local Law No. 1 of 2008, Local Law No. 2 of 2009, Local Law No. 2 of 2012, Local Law No. 2 of 2013 and Local Law No. 1 2015.

ARTICLE I **ENACTING CLAUSE, TITLE, PURPOSES, APPLICATION AND DEFINITIONS**

SECTION 101 **ENACTING CLAUSE**

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York, the Town Board of the Town of Pembroke hereby adopts and enacts as follows:

SECTION 102 **TITLE**

This Zoning Law shall be known as the "Zoning Law of the Town of Pembroke".

SECTION 103 **PURPOSES**

This Zoning Law is adopted for the protection and promotion of the public health, safety, morals and general welfare of the community, as follows:

1. To guide the future growth and development of the Town in accordance with a comprehensive land use plan and population density that represents the most beneficial and convenient relationships among the residential, nonresidential and public areas within the Town, considering the suitability of each area for such uses, as indicated by existing conditions, trends in population and mode of living, and having regard for the use of land, building development and economic activity, considering such conditions and trends both within the Town and with respect to the relation of the Town to areas outside thereof.

2. To provide adequate light, air and privacy; to promote safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of the population.

3. To protect and conserve the value of the land throughout the Town and the value of buildings appropriate to the various districts established by this Zoning Law.

4. To protect the rural character and the social and economic stability of all parts of the Town, and to encourage the orderly and beneficial development of all parts of the Town.

5. To bring about the gradual conformity of the uses of land and buildings through the comprehensive zoning plan set forth in this Zoning Law, and to minimize the conflicts among the uses of land and buildings.

6. To promote the most beneficial relation between the uses of land and buildings and the circulation of traffic throughout the Town, having particular regard to the avoidance of congestion in the streets and the provision of safe and convenient vehicular and pedestrian traffic movement appropriate to the various uses of land and buildings throughout the Town.

7. To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Town.

8. To limit concentrated development to an amount equal to the availability and capacity of public facilities and services.

9. To prevent the pollution of streams and ponds, to safeguard the water table, and to encourage the wise use and sound management of the natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of the land.

SECTION 104 APPLICATION OF REGULATIONS

No building or structure shall be erected, constructed, moved, altered, rebuilt or enlarged, nor shall any land, water or building be used, designed or arranged to be used for any purpose except in conformity with this Zoning Law. No building, structure, or premises shall be used, and no building or other structure shall be erected which is intended, arranged or designed to be used for any trade, industry, business or purpose of any kind, that is noxious by reason of the emission of odor, dust, refuse matter, garbage, smoke, fumes, gas, noise or vibration, or that is dangerous to the health or safety of the community.

In interpreting and applying this Zoning Law, the requirements contained herein are declared to be the minimum requirements for the protection and promotion of the public safety, health, morals and general welfare. This Zoning Law shall not be deemed to affect in any manner whatsoever any easements, covenants or other agreements between parties; however, where this Zoning Law imposes greater restrictions than are imposed by other ordinances, rules, regulations, licenses, certificates or other authorizations, or by easements, or covenants, or agreements, then the

provisions of this Zoning Law shall prevail.

This Zoning Law shall not apply to uses which were legal, prior, existing, nonconforming uses as defined herein except as set forth in Section 304.

Nothing herein contained shall require any change in plans or construction of a building for which a zoning permit has been issued.

All buildings under construction at the time of this Zoning Law is adopted shall conform to the Zoning Ordinance in effect at the time construction was commenced.

SECTION 105 VALIDITY

The invalidity of any section or provision of this Zoning Law shall not invalidate any other section or provision.

SECTION 106 DEFINITIONS

Except where specifically defined herein, all words used in this Zoning Law shall carry their customary meanings. Words used in the present tense shall include the future tense and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure", the word "shall" is always mandatory; the words "occupied" or "used" shall be construed to mean and shall be considered as though followed by words "or intended, arranged or designed to be used or occupied".

The following terms are specifically defined. As used in this Zoning Law, the following words shall have these meanings:

Accessory Building: A building situate on a lot, subordinate to the main building on the same lot, and used for purposes customarily incidental and subordinate to said main building.

Accessory Use: Use customarily incidental and subordinate to the principal use of buildings, and located on the same lot. For the purposes of this Zoning Law a Family Day Care Home, Roadside Stand and Home Occupation (as defined herein) shall be considered accessory uses to a principal use on a lot; however, they and other accessory uses may be subject to additional requirements and review provisions set forth in this Law (i.e. a home occupation requires issuance of a special use permit).

Accessory Structure: A structure the use of which is incidental to the principal use of the main structure and which is attached thereto or located on the same lot.

Adult Care: The provision of temporary or long term residential care and services to adults who, though not requiring continual medical or nursing care as provided by facilities licensed or operated pursuant to Article 28 of the Public Health Law or Articles 19,23, 29, and 31 of the Mental Hygiene Law, are, by reason of physical or other limitations associated with age, physical or mental disabilities or

other factors, unable or substantially unable to live independently.

Adult Care Facility: A facility other than a Family Type Home, which provides adult care. For the purposes of this Zoning Law an Adult Care Facility shall include the following: adult home, enriched housing program, residence for adults, shelter for adults, public home and private proprietary adult-care facility as defined by NYS Department of Social Services Chapter II, Subchapter D, Part 485.

Adult Uses: Business including, but not limited to, an Adult Bookstore, Adult Entertainment, Cabaret, Adult Mini Motion Picture Theater and Adult Motion Picture Theater as those terms are defined in Section 516.

Agricultural Use: Any parcel of land containing at least five (5) acres used for the raising of food products or other useful or valuable growths of the field or garden for sale, together with dairying, raising of livestock and poultry, and other generally accepted agricultural practices, where the same is carried on as a business or otherwise for profit. Such uses shall include the establishment of necessary farm structures within the prescribed limits, and the storage of equipment used in connection therewith. Agricultural uses shall exclude the raising of fur-bearing animals, riding academies, public stables or dog kennels.

Alteration: Structural changes, rearrangements, change of location, or addition to a building, other than repairs and modification in building equipment.

Amusement Game: Any mechanical, electric or electronic device used or designated to be operated for entertainment or as a game by the insertion of a coin, slug, token, plate, disc, key or any other article into a slot, crevice, or other opening or by paying money to have it activated. Not included are rides, bowling alleys, any device maintained within a residence for the not-for-profit use of occupants thereof and their guests, any gambling device, or jukeboxes.

Animal Shelter: Building or land used for the temporary harboring of stray or homeless dogs, cats, and other similar household pets, together with facilities for the provision of necessary veterinary care and adoption of the harbored animals.

Animal Waste Storage Facility: Any building, structure, pond, lagoon or yard for the bulk storage of animal waste for eventual removal and/or dispersion.

Antenna: An arrangement of wires or metal rods used for transmitting or receiving electromagnetic waves.

Area of Special Flood Hazard: Land subject to a one percent (1%) or greater chance of flooding in any given year, and part of Zone A on the Federal Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM).

Area Variance: The authorization by the Zoning Board of Appeals for the use of land in a manner, which is not allowed by the dimensional or physical requirements of this Zoning Law.

Arterial Highway: A highway, which collects and distributes traffic to and from minor highways. For the purposes of the Zoning Law the following highways shall be considered arterial highways within the Town: NYS Routes #5, 33 and 77.

Bed and Breakfast: See Tourist Home

Board of Appeals: The officially designated Town of Pembroke Board of Appeals as established by the Town Board in accordance with Section 267 of Town Law.

Boarding House: Owner-occupied dwelling wherein more than three (3) non-related, non-transient people are sheltered for profit.

Buffer Strip: See Section 302.F.

Building: Any structure having a roof supported by columns or by walls, and intended for the shelter, housing or enclosure of persons, animals, machinery, equipment or other material.

Building, Front Line Of: The line of that face of the building nearest the street line, or if there are street lines on two (2) or more sides of the building, it is the line of that face of the building fronting on that street line where the principal entrance is located. This face includes decks and porches but does not include steps.

Building, Height Of: The vertical distances measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

Building Permit: A permit issued by the Code Enforcement Officer, stating that plans for the proposed construction of a building or structure are in conformance with the Uniform Fire Prevention and Building Code.

Building, Temporary: A "temporary building" or "temporary structure" erected, constructed or placed upon the premises, for a period not exceeding nine (9) months. All other buildings or structures shall be deemed permanent for the purposes of this Zoning Law.

Campground: Land on which is located one or more cabins, trailers, shelters, houseboats or other accommodation for seasonal or temporary living purposes, excluding mobile homes.

Certificate of Compliance: A certificate issued by the Zoning Administration Officer upon completion of construction, alteration or change in occupancy or use of a building or land. Said certificate shall acknowledge compliance with all the requirements of this Zoning Law only and any adjustments thereto granted by the Board of Appeals.

Certificate of Occupancy: A certificate issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of the New York State Uniform Fire Prevention and Building Code.

Child Day Care: Shall mean 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, stepparent, guardian or relative within the third degree of consanguinity of the parents or stepparents of such child.

Child day care does not refer to care provided in:

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

Child Day Care Center: Shall mean a program or facility 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, except those programs operating as a group family day care home, a family day care home, or school-age child care program, as defined in this Section.

Club: An organization established pursuant to the New York Not-For-Profit Corporation Law for a social, educational, or recreational purpose, catering exclusively to members and their guests, whose activities are not conducted primarily for profit.

Cluster Development: A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, while maintaining the overall density limitation imposed by said minimum lot area through the provision of open space as part of the site development plan.

Commercial Communication Tower: A structure, including one or more antennas, that is intended for transmitting and/or receiving radio, television, telephone or microwave communications but excluding those used either for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar communications.

Commercial Excavation: A lot or part thereof used for the purpose of excavation, processing or sale of sand, gravel, or clay, or other natural mineral deposits or the quarrying of any kind of rock formation, and exclusive of the process of grading a lot preparatory to the construction of a building for which a building permit application has been filed. Commercial excavation shall be divided into two categories based on the scale and type of operation as follows:

1. Major Excavation: All excavations requiring a New York State Mined Land Reclamation Permit shall be considered major excavations.

2. Minor Excavation: All excavations not requiring a New York State Mined Land Reclamation Permit shall be considered minor excavations.

Commercial Wind Energy System: A wind energy system that is operated primarily (51% or more) to put energy into the electric grid, and/or has a nameplate capacity of more than 50 kilowatts (kW), and/or a total height of more than 175 feet, and/or a blade length of more than 30 feet.

Community Center: Meeting hall or place of assembly, not operated primarily for profit.

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

Contractor's Yard: Businesses engaged in construction of buildings and structures, remodeling and repairs to existing buildings and structures, electrical services, plumbing services, excavation and grading services, roofing and siding services, masonry services, paving services, well drilling, sewage disposal system installation and services, and other similar services. Parking or storage of two or more pieces of contractor's equipment (i.e. back hoe, bulldozer, compressors, commercial trucks, cargo containers, roll-offs, etc.) or bulk storage of construction material on a lot

other than on-site or personal use.

Convalescent Home, or Extended Care Facility: See "Hospital".

Coverage: That percentage of the lot area covered by the combined area of all buildings or structures on the lot.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, which change could lead to increased flood damage, excluding normal maintenance to farm roads.

Drive-In Business: A drive-in business includes drive-in restaurants, refreshment stands, banks, and the like where patrons enter the premises and are served or entertained in automobiles.

Dwelling: A building, including but not limited to a factory-manufactured home or mobile home, designed or used exclusively as permanent living quarters for one or more families; the term shall not be deemed to include automobile court, hotel/motel, boarding house, tourist home, tent or recreational vehicles.

Dwelling Unit: A building, or portion thereof, providing complete housekeeping facilities for one family.

Dwelling, One-Family: A building containing one dwelling unit only.

Dwelling, Two-Family: A dwelling containing two dwelling units only.

Dwelling, Multi-Family: A dwelling containing three or more dwelling units.

Dwelling, Multi-family Project: An apartment complex containing one or more separate buildings with more than three units.

Dwelling Unit, Primary: A dwelling, or portion thereof, providing complete living facilities for one family, and which occupies a space equal to or greater than 50% of the total available living space within a structure.

Electromagnetic Interference (EMI) -The interference to communication systems created by the scattering of electromagnetic signals.

Factory-Manufactured Home: A dwelling unit, or unit, which incorporate structures or components designed for residential occupancy, constructed by a method or system of construction whereby the structure or component is wholly or in substantial part manufactured in a manufacturing facility and is intended for permanent installation on a building site. As set forth in the NYS Uniform Code (Part 1211.1), a factory-manufactured home shall be constructed and installed in accordance with Subchapter B of the Code. For the purposes of this Zoning Law a factory manufactured home shall be treated the same as a dwelling unit constructed on-site.

Family: One or more persons who live together in one dwelling unit and maintain a common household. May consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. May also include domestic servants and gratuitous guests.

Family Day Care Home: Shall mean a family home which is a personal residence and occupied as a family residence which provides child day care on a regular basis for more than three (3) hours per day per child for three (3) to six (6) children for compensation or otherwise, as provided for and registered by NYS Department of State. The name, description or form of the entity, which operates a family day care home, does not affect its status as a family day care home. For the purposes of this Zoning Law, a family day care home shall be considered an accessory use to a one (1) family dwelling and shall not require a zoning permit unless the building is being altered.

Family-Type Home: Adult care established and operated for the purpose of providing long term residential care, room, board and personal care, and/or supervision to four (4) or fewer adult persons unrelated to the operator. For the purposes of this Zoning Law a family-type home shall be considered a home occupation.

Fence: An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials other than temporary uses such as snow fences or rabbit fences.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas, resulting from the overflow of inland waters and/or the unusual and rapid accumulation of, or runoff of, surface waters from any source.

Flood Insurance Rate Map (FIRM): Means an official map of the community, on which the FEMA has delineated the area of special flood hazard and the risk premium zones applicable to the community.

Flood Plain Overlay Zone: That area of the Town identified on the Flood Insurance Rate Map (FEMA Community Number 360283) as being subject to flood and/or mudslide hazards, which area is delineated on the Zoning Map, and for which special flood plain management requirements and criteria are enumerated in the Town's Flood Damage Prevention Local Law.

Floor Area of a Building: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, excluding basement floor areas not devoted to residential use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Floor, Lowest: Floor of lowest enclosed level including basement, crawl space, or garage.

Frontage: The extent of a building or a lot along one public street as defined herein.

Game Room: A building or place containing five (5) or more amusement games as defined here in (see Amusement Game)

Garage, Private: An enclosed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein, nor is space for more than one (1) car leased to a nonresident of the premises.

Gasoline Station: Any building or land used for sale of motor fuel, oil and motor vehicle accessories, which may include facilities for lubricating, washing or servicing motor vehicles, but not painting or body repairs.

Gasoline Station-Market (Convenience Store): A gasoline station which provides a second commercial service such as a restaurant, dairy bar, beverage market, or food market, or a commercial use which provides for gasoline sales. For the purpose of this definition, sales from vending machines are not considered commercial service.

Grade, Finished: Natural surface of the ground, or the surface of the ground, lawn, walks or roads after the completion of any change in contour.

Group Family Day Care Home - Shall mean a family home which is a personal residence and occupied as a family residence which provides child day care 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, as provided for and registered by NYS Department of State. The name, description or form of the entity which operates a family day care home does not affect its status as a family day care home. For the purposes of this Zoning Law, a family day care home shall be considered an accessory use to a one (1) family dwelling and shall not require a zoning permit unless the building is being altered.

Habitable Floor Area: Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation or combination thereof. A floor used only for storage purposes is not "habitable".

Home Occupation: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods, and/or services.

In particular, a home occupation may include, but is not limited to, the following: accountant architect; art studio; attorney; barber shop (limited to one chair); beauty parlors (limited to two work stations); chiropractor; counselor; computer programmer; cook; dentist; direct sale product distribution (Amway, Avon, Tupperware, for example); draftsman; dressmaker or tailor; electrical/radio/television repair; engineer; financial planning and investment services; insurance broker or salesman; massage therapist; musician; optometrist; photographer; physician or surgeon; physical therapist; psychologist; real estate broker or salesperson; surveyor; teacher (limited to no more than two students at one time); telephone answering; upholsterer; veterinarian; or family-type home (adult care). However, a home occupation shall not be interpreted to include the following

motor vehicle repair shop, machine shop, welding and fabrication shop, commercial stables and kennels, restaurants or furniture refinisher.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

Hospital, Animal: An establishment for the medical and/or surgical care of injured animals.

Hotel/Motel: A building providing overnight accommodation for more than four (4) transient people, which building need not be owner occupied and may provide eating, restaurant and related facilities.

Indoor Recreation: Includes, but is not limited to, health club, bowling alley, tennis court, table tennis, pool hall, skating rink, gymnasium, swimming pool, hobby workshop, and similar places of indoor recreation.

Industrial Park: A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Inter-modal Shipping Container: A standardized reusable steel box used for secure storage and/or movement of goods. Inter-modal indicates a container that can be moved from one mode of transport to another (from ship, to rail, to truck) with out unloading and reloading its contents.

Junkyard: The term junkyard shall be defined in the same manner as is set forth in Local Law No.2 of 1985 of the Town of Pembroke together with any amendment(s) thereto.

Kennel: Building or land used for harboring six (6) or more dogs over six (6) months old.
Landfill, Sanitary: The depositing of refuse in a natural or man-made depression or trench, or dumping it at ground level, then compacting to the smallest practical volume, and covering with earth or other material in a systematic and sanitary manner.

Land Separation: See definition of "Land Separation" contained in Town of Pembroke Local Law No. 1 of 1992 regulating Land Separations, together with any amendment(s) thereto.

Landscaping Contractor's Yard: An area and building(s) where landscaping contractor stores equipment, vehicle, materials (rock, stone, bricks, fencing, fixtures, etc.), tools and other items related to his/her business.

Light Industrial: The processing, fabrication, assembly or packaging of previously prepared or refined materials.

Lot: Land occupied or which may be occupied by a building and its accessory uses, together with required open spaces, having not less than minimum area, width and depth required for a lot in the district in which such land is situated, and having frontage on a street, or other means of access as may

be determined by the Planning Board to be adequate as a condition for issuance of a building permit. Any land included in a public road, street or highway right-of-way shall not be considered part of the lot for zoning purposes.

Lot Area: Total area within property lines. Any land included in a public road, street or highway right-of-way shall not be included in calculating lot area.

Lot, Comer: A lot located at the junction of and fronting on two or more intersecting streets (also see definition "Lot Line Front").

Lot Depth: Mean horizontal distance from street right of way line of the lot to its opposite rear line measured at right angles to the street right-of-way line.

Lot, Frontage: The horizontal distance between the side lot lines, measured at the street right-of-way line.

Lot Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth.

Lot Lines: The property lines bounding a lot as defined herein.

Lot Line, Front: In the case of a lot abutting upon only one street, the line separating the lot from the street right of way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.

Lot Line, Rear: The lot line, which is generally opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than ten (10) feet long, lying wholly within the lot and farthest from the front lot line.

Lot Line, Side: The property line or lines extending from the front lot line to the rear lot line, except in the case of comer lots which have no rear lot line.

Manufactured Housing: A dwelling unit, or units, manufactured in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying it is built in compliance with the NYS Uniform Code as either a Factory-Manufactured Home (NYS Uniform Code Parts 1210, 1211 and 1212) or a Mobile Home (NYS Uniform Code Parts 1220, 1221, 1222 and 1223).

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

Mobile Home: A structure, whether occupied or not, transportable in one or more sections, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes plumbing, heating, and air conditioning and electrical systems contained therein. For the purposes of this Zoning Law a mobile home shall comply with the NYS Uniform Code (Parts 606 and 1221.1) and be constructed in accordance with regulations set forth in the Compilation of Federal Regulation (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards.

Mobile Home Park: A parcel, which has been improved for the rental or lease of two or more lots and the provision of services for mobile homes for non-transient residential use.

Motel: See Hotel.

Motor Vehicle: A motor powered vehicle including, but not limited to, an automobile, pickup truck, van, sport utility vehicle (SUV), recreational vehicle (RV), motorcycle, all terrain vehicle (ATV), and snowmobile. Trucks with a gross vehicle weight rating (GVWR) of greater than 10,000 lbs. shall not be considered a motor vehicle for the purposes of this Zoning Law.

Motor Vehicle Repair Shop: Any building or land used for gain, wholly or partially, engaged in the business of service, repair or diagnosing motor vehicle malfunctions or repairing bodies, fenders or other components damaged by accidents or otherwise.

Non-commercial Wind Energy System- A wind energy system that is operated primarily (51% or more) for on-site (may be more than one parcel) consumption, and has a nameplate capacity of 50 kW or less, and a total height of 175 feet or less, and a blade length of 30 feet or less.

Non-Conforming Building: A building legally existing at the time it was created which in its design or location upon a lot does not conform to the current regulations of this Zoning Law for the district or zone in which it is located.

Non-Conforming Lot: A lot of record legally existing at the date of the passage of this Zoning Law which does not have the minimum frontage or contain the minimum area for the zone in which it is located.

Non-Conforming Use: Use of a building or of land legally existing at the time it was created, but not conforming to the current zoning regulations of the district in which it is located.

Nursing Home: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

NYS Uniform Code: The New York State Uniform Fire Prevention and Building Code as set forth in 9 NYCRR Volume B of the Executive Law.

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

Outdoor Recreation: Includes, but is not limited to, golf courses; golf driving range; trap, skeet, and archery range; swimming pool; skating rink; tennis court; recreation stadium; skiing facility; hunting preserve; and similar places of outdoor recreation.

Outside Solid Fuel Burning Device: A solid fuel burning device designed and intended for installation outside of the primary building on a lot and used to produce heat for transfer to the primary or accessory building(s) on such lot.

Owner: Person or persons holding legal or equitable title to the property.

Parking Space: An off-street space available for the parking of one (1) motor vehicle on a transient basis and having a width of ten (10) feet, and an area of not less than two hundred (200) square feet, exclusive of passageways and driveways, and having access to a street.

Person: A person, firm, partnership, corporation, limited liability company, association or legal representative, acting individually or jointly.

Personal Services: Establishments primarily engaged in providing services involving the care of a person or his or her apparel.

Planning Board: The officially designated Town of Pembroke Planning Board as established by the Town Board in accordance with Section 271 of the Town Law.

Pond: A manmade body of water other than a swimming pool, greater than two feet in depth.

Professional Office: An office used by a duly New York State licensed/registered architect, Attorney, dentist, certified counselor, certified public accountant (CPA), chiropractor, engineer, insurance broker or salesman, massage therapist, optometrist, physician or surgeon, physical therapist, psychologist, real estate broker or salesperson, surveyor, teacher or veterinarian.

Public Street/Road: A thoroughfare which has been dedicated or deeded to the public for public use, and which has been improved in accordance with municipal standards.

Reclamation Plan: Applicant's proposal for reclaiming the affected land, including a graphic and written description of the proposed use for all affected land, the method of reclamation and a schedule for performing reclamation.

Recreational Vehicle: A unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own power or is mounted on or drawn by a motor vehicle. The basic entities 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 motor vehicle.

B. Camp Trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls, which fold for towing by a motor 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.

Recyclables Handling and Recovery Facility: Recyclables handling and recovery facility means a solid waste management facility, other than collection and transfer vehicles, at which recyclables are separated from the solid waste stream, or at which previously separated recyclables are collected and which is regulated by 6 NYCRR Part 360.

Religious Institution: Church, temple, parish house, convent, seminary and retreat house.

Restaurant: Any establishment, however designed, at which food and beverages (alcoholic and/or non-alcoholic) are sold for consumption on the premises to patrons seated within an enclosed building and where the taking of food and drink from said building is incidental. However, a snack bar or refreshment stand at a public, semi-public or community swimming pool, playground, play field or park operated for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

Retail Trade: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Roadside Stand: Structure of a nonpermanent nature (movable and temporary) located on the owner's property utilized during the harvest season for the sale of agricultural products grown primarily by the owner.

Satellite Dish: A structure which is designed and/or intended to receive, relay or send television signals to or from orbiting or geo-stationary satellites.

School: Schools shall include parochial, private and public institutions providing New York State approved educational services, including preschool and vocational programs, together with private and public schools and colleges and universities.

School-Age Child Care Program: Care provided on a regular basis to more than six school age children under 13 years of age or who are incapable of caring for themselves where such children attend a school higher than kindergarten or attend full day (at least six hours) kindergarten at a public or private school whether such care is provided for compensation or otherwise.

Self-Service Storage Facility: A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the dead storage of customer's goods or wares.

Shadow Flicker -The alternating pattern of sun and shade caused by wind tower blades casting a shadow.

Shopping Center: A group of businesses occupying adjoining structures, having adequate space for loading and unloading and adequate off-street parking.

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. A sign includes any billboard, but does not include the flag, pennant, or insignia of any nation, or group of nations, or of any state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. However, a sign as designed herein shall not include a similar structure or device located within a building.

Sign, Advertising: A sign, which directs attention to a business, commodity, service or entertainment, conducted, sold or offered elsewhere than upon the same lot.

Sign, Business: A sign, which directs attention to a business or profession conducted or to products sold upon the same lot. A "For Sale" or "To Let" sign relating to the lot on which it is displayed shall be deemed a "business sign".

Sign, Directional: A sign limited to providing information on the location of an activity, business or event.

Sign, Portable: A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

Sign, Temporary: A sign related to a single activity or event having a duration of no more than sixty (60) days.

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.

Site Plan: A rendering, drawing or sketch prepared to specifications containing necessary elements, as set forth in this Zoning Law, which shows the arrangement, lay-out and design of the proposed use of a single parcel of land as shown on such plan. Plats showing lot, blocks or sites which are subject to review under Section 276 of NYS Town Law and the Town of Pembroke, Local Laws Nos. 1 and 2 of 1992 Regulating Land Separations and Subdivisions (including any amendments thereto) shall not be subject to review as site plans under this Zoning Law unless a zoning application is submitted.

Skilled Trade Shop: A shop where an individual involved in a skilled building trade (including carpenter, cabinet/furniture maker, plumber, electrician, for example) assembles custom fixtures, cabinets, furniture, for example, for installation by him/her at a job site location. No retail sales of materials and/or products directly to the public shall be allowed on site.

Subdivision: See definition of "Subdivision" contained in Town of Pembroke Local Law No. 2 of 1992 regulating Subdivisions (including any amendments thereto).

Special Use Permit: Authorization of a particular use of land which is permitted in this Zoning Law, subject to conditions imposed by this Zoning Law and/or the Town of Pembroke Planning Board to assure that the proposed use is in harmony with this Zoning Law and will not adversely affect the neighborhood if such conditions are met.

Stable Private: A building in which horses or other livestock are kept for private use and not for hire, remuneration, or sale.

Stable, Public: A building in which horses or other livestock are kept for remuneration, hire or sale.

Stabling of Agricultural Animals: A concentration of animals, permitted under agricultural use, private stable and public stable, within a building or other structure for the purpose of housing or feeding.

Storm Water/Erosion Control Basin: Any earthen structure, which is intended to retain storm waters and designed to release runoff over a period of time. A basin may or may not retain water over a long period of time.

Street/Road Grade: The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

Street/Road Right-of-Way Line: The line determining the limit of the highway rights of the public, either existing or contemplated

Structure: Anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on or in the ground.

Swimming Pool: A structure intended for bathing, swimming or diving purposes, made of concrete, masonry, metal or other impervious materials, provided with a re-circulating and/or controlled water supply and a depth of greater than two (2) feet.

Temporary Use: An activity conducted for a specified limited period of time, which may not otherwise be permitted by the provisions of this Zoning Law. Examples of such uses are buildings incidental to new construction, which are removed after the completion of the construction work.

Topsoil: The fertile upper part of the soil.

Total Height: The vertical distance from ground level to the tip of a wind turbine blade when the tip is at its highest point.

Tourist Home: Owner-occupied dwelling in which overnight accommodation is provided for less than four (4) transient people for profit (includes bed and breakfast).

Town Board: Shall mean the Town Board of the Town of Pembroke, New York.

Trailer: Trailer shall include any towed vehicle used for carrying goods, equipment, and/or machinery.

Trucks: Motor Vehicle with a gross vehicle weight rating (GVWR) of greater than 10,000 lbs.

Unregistered Motor Vehicle: Any powered vehicle designed for use on public highways including automobiles, trucks, and motorcycles for which the annual registration issued by the NYS Dept. of Motor Vehicles has expired or where the license plate has been removed.

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

Use Variance: The authorization by the Zoning Board of Appeals for use of land for a purpose, which is not allowed or is prohibited by this Zoning Law.

Utility, Public: Any person, firm, corporation or governmental subdivision, duly authorized to furnish to the public, under public regulation, electricity, gas, water, sanitary sewers, storm sewers, steam, telephone, telegraph or cable television, or other similar service.

Warehouse: A building used primarily for the storage and/or distribution of goods and materials.

Wind Energy Conversion System (Production Model): Equipment installed for primarily farm use that converts and then stores or transfers energy from the wind into usable forms of energy in which the output is primarily consumed within the farm operation. The system includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, substation, maintenance or control facility, or other component used in the system.

Wind Energy System: Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and include any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, substation, maintenance or control facilities, or other component used in the system. A wind energy system can consist of one or more wind towers.

Wind Tower: The monopole, freestanding, or guyed structure that supports a wind turbine.

Yard: An unoccupied open space, on the same lot with any principal or accessory buildings or structures.

Yard, Front: The unoccupied, open space within and extending the full width of the lot from the front lot line to the front line of the principal building which is nearest to such front lot line.

Yard, Rear: The unoccupied, open space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such lot line.

Yard, Side: The unoccupied, open space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

Zoning Administration Officer: The Zoning Administration Officer of the Town of Pembroke as appointed by the Town Board to administer the permit, inspection and review provisions of the Zoning Law.

Zoning Enforcement Officer: The Zoning Enforcement Officer of the Town of Pembroke as appointed by the Town Board whose duties are to enforce the Zoning Law and conditions placed upon Special Use Permits.

Zoning Permit: A permit issued by the Zoning Administration Officer, stating that the purpose for which a building, structure or land area is to be used is in conformance with the uses permitted and all other requirements of this Zoning Law.

ARTICLE II **ESTABLISHMENT OF ZONING DISTRICTS**

SECTION 201 **ZONING DISTRICT CLASSIFICATION**

The Town of Pembroke is hereby divided into the following zoning districts and overlay zones:

- AG Agricultural District
- AG-R Agricultural-Residential District
- MDR Medium Density Residential District
- R Residential District
- C Commercial District
- LC Limited Commercial District
- I Industrial
- INT Interchange District
- EP Earth Products District
- PUD Planned Unit Development District
- FPO Flood Plain Overlay Zone (Information Only)

SECTION 202 **ZONING MAP ESTABLISHED**

Said zoning districts are bounded and defined as shown in a map entitled "Zoning Map of the Town of Pembroke, N.Y.". The official copy of the zoning map is on file at the Town Clerk's Office.

SECTION 203 **INTERPRETATION OF ZONING DISTRICT BOUNDARIES**

Where uncertainty exists as to the location of any boundaries shown on the zoning map, the following rules shall apply:

A. Zoning district boundary lines are intended to follow streets, rights-of-way, water courses or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions, as shown on the zoning map.

B. Where zoning district boundaries are indicated as following approximate streets, rights-of-way, or water-courses, the center-lines thereof shall be construed to be such boundaries.

C. Where zoning district boundaries are so indicated that they follow the edge of lakes, ponds, reservoirs or other bodies of water, mean high water lines thereof shall be construed to be the zoning district boundaries.

D. Where zoning district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundaries.

E. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine the location of said lines.

SECTION 204 **LOTS IN TWO OR MORE DISTRICTS**

Where a zoning district boundary line divides a lot under single ownership on the effective date of this Zoning Law, leaving part subject to permissive regulations and part subject to prohibitive regulations, the Board of Appeals after public hearing may permit an extension of the use of that lot into the district where it is prohibited provided the extension does not extend more than fifty (50) feet into that district. Furthermore, the Board may impose conditions affecting such extension if required to protect neighboring property.

SECTION 205 **EXISTING LOTS OF RECORD**

A single family dwelling, mobile home, and/or customary accessory buildings may be placed on any vacant lot of record existing prior to the effective date of this Zoning Law and having a minimum of one hundred (100) feet in width and twenty thousand (20,000) square feet in area. This provision shall apply even though such lot fails to meet the requirements for area, width or yard size, provided that the other requirements of this Zoning Law are met. The minimum yard requirements for single-family dwellings on existing lots shall be as follows:

1. Front.....Fifty (50) feet
2. Side.....Fifteen (15) feet
3. Rear.....Thirty (30) feet

ARTICLE III **GENERAL REGULATIONS**

The provisions of this Zoning Law shall be subject to such exceptions, additions or modifications as herein provided by the following general supplementary regulations. The dimensions and restrictions set forth in Schedule A are incorporated herein and made a part of this Zoning Law.

SECTION 301 **BUILDINGS, USES AND LOTS**

A. One Principal Building and Use Per Lot - There shall not be more than one (1) principal building and one (1) principal use on any one lot in the Agricultural (AG), Agricultural Residential (AG-R), and the Medium Density Residential (MDR) Districts except as provided for in the following:

- (1) An approved multifamily dwelling project,
- (2) One permitted residential use accompanying a non-residential use, or uses, permitted on a lot in Agricultural (AG), Agricultural-Residential (AG-R), Medium Density Residential (MDR), and Limited Commercial (LC) Districts, provided there is only one use of a commercial nature on the lot, or
- (3) One permitted residential use accompanying a non-residential use, or uses, requiring a Special Use Permit in Agricultural (AG), Agricultural Residential (AG-R), Medium Density Residential (MDR), and Limited Commercial (LC) Districts, if approved by the Planning Board as part of the Special Use Permit Application Process, provided there is only one use of a commercial nature on the lot.

B. Yard and Open Space for Every Building- No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be included as any part of the yard or open space for any other building. Also, no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot.

C. Subdivision of a Lot - Where a lot is formed hereafter from the part of a lot already occupied by a building, such separation shall be effected so as not to violate any of the requirements of this Zoning Law with respect to the existing building, including yards and other required spaces in connection therewith. No zoning permit shall be issued for the erection of a building on the new lot thus created unless there is full compliance with all the provisions of this Zoning Law.

D. Irregularly Shaped Lots- Where a question exists as to the proper application of any of the requirements of this Zoning Law to a particular lot or parcel because of the peculiar or irregular shape of the lot or parcel, the matter shall be referred to the Zoning Board of Appeals and dealt with in accordance with the applicable provisions of Section 707.

E. Lots Under Water or Subject to Flooding

1. No more than twenty-five (25) percent of the minimum area requirements of a lot may be met by land, which is always under water, or land, which falls within the Federally, designated 100-year flood boundary.

2. Land, which is under water and is open to use by persons other than the owner shall be excluded from the computation of the minimum area of a lot.

3. Land in the bed of a stream not exceeding five (5) feet in width at mean water level, and land in a pond not exceeding one hundred fifty (150) square feet in area shall not be considered as under water for the purpose of computing lot area.

4. Where any part of a lot is separated by a main body of water, such separate land shall not be included in computing lot area.

F. Required Road Frontage- No zoning permit shall be issued for any structure unless the lot upon which that structure is to be built has the required frontage on a road, as defined herein, which frontage provides the actual access to such structure, and which road shall have been suitably improved to Town Board standards or a bond posted there for as provided in Section 280a of the Town Law.

G. Parts of Lot Not Counted Toward Area Requirements- When calculating the area of an existing lot of record, having less than the minimum required frontage pursuant to Section 205, no portion of the lot that is less than one-half the minimum required frontage may be counted as part of the minimum required lot area.

H. Adjacent Lots- Where two (2) or more adjacent lots are at the time of the effective date of this Zoning Law in the same ownership, they shall not be considered a single lot, unless they are described as one parcel in a deed recorded at the Genesee County Clerk's Office.

I. Yards on Comer Lots -When a lot fronts on two or more streets, any yard adjoining a street shall be considered a "front yard" and shall comply with all the applicable requirements for a front yard for the district in which it is located. When a lot has two or more front yards the remaining yards, those not adjoining a street, shall be considered side yards and comply with all the applicable requirements for side yards in the district in which it is located.

SECTION 302 **SUPPLEMENTARY YARD REGULATIONS, STRIPPING, AND EXCAVATIONS**

A. Porches and Decks - A porch or deck shall be considered a part of the building in determining the yard requirements or amount of lot coverage.

B. Projecting Horizontal Architectural Features- Architectural features, such as windowsills, belt courses, chimneys, cornices, eaves or bay windows, shall not project more than four (4) feet into any required yard.

C. Fire Escapes - Open fire escapes may extend into any required yard.

D. Visibility at Intersections- On a corner lot in any district, no fence, wall, hedge, or other structure or planting more than three (3) feet in height, shall be erected, placed or maintained within the triangular area formed by the intersecting road lines and a straight line joining said road lines at points which are forty (40) feet distance from the point of intersection, measured along said road lines. This paragraph shall not apply to existing trees, provided that no branches are closer than six (6) feet to the ground.

E. Swimming Pools - Swimming pools shall be considered accessory structures within the provisions of Section 303 of this Zoning Law, and shall be set back from lot lines at least the minimum distance required for other buildings and structures. In-ground pools shall be surrounded by a chain-link or solid wood fence at least four (4) feet high. All pools shall have a gate equipped with self-closing, self-locking devices. Swimming pools shall be in conformity to the NYS Uniform Code.

F. Buffer Strip - Wherever a buffer strip is required by this Zoning Law it shall meet the following standards:

1. Be at least fifteen (15) feet in width and six (6) feet in height.
2. Be of evergreen planting of such type, height and spacing as will screen the activities on the lot from view of a person standing at street level on the adjoining lot.
3. A wall or fence of which the location, height, and design has been approved by the Planning Board, may upon good cause being shown, be substituted for the required planting.

G. Top Soil- No person shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from which the topsoil is taken, except as specifically allowed by the Planning Board upon the recommendation of the Town Engineer in connection with the construction or alteration of a building or structure on such premises and excavating or grading incidental thereto.

H. Excavation During Construction - In any construction, open excavations shall be limited to a maximum of sixty (60) days, with appropriate fencing, barricades or covering.

I. Height Exceptions

1. District building height regulations shall not apply to flagpoles, radio or television antennae, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers, or any similar structures, provided that such structures are located on the roof and in their aggregate coverage occupy no more than ten percent (10%) of the roof area of the building and provide such structures pose no hazard to aircraft operations.

2. District building height regulations shall not apply to radio or television antennas and commercial communication antennas or towers provided such structures do not present a hazard to aircraft operations.

SECTION 303 **LOCATION OF ACCESSORY BUILDINGS, STRUCTURES AND OTHER ENCLOSED STORAGE**

A. Accessory Buildings Are Permitted As Follows:

1. One-story accessory building having a total floor area of two hundred fifty six (256) square feet or less and a building height of not more than twelve (12) feet shall not be located closer than eight (8) feet to the rear and side lot lines and shall be located in the side and/or rear yard.

2. The location of accessory buildings having a total floor area of greater than two hundred fifty six (256) square feet and/or a building height of greater than twelve (12) feet, shall be located in compliance with the required yard areas of the respective districts and shall be located in either the side or rear yard(s). If the main structure is located 75 or more feet from the road right-of-way the accessory building may be located in the front yard of the main structure but not within the minimum required front yard setbacks and/or side.

3. Accessory buildings with a total area, as measured on the exterior, of less than 15 sq. ft., such as school bus stations and animal shelters, do not require a zoning permit. School bus stations shall be permitted in the front yard provided they are located a minimum of ten (10) feet from any property line or the edge of any highway right-of-way. All other such accessory buildings shall comply with Section 303. Subsection A, Paragraph 1.

B. Accessory Structures (Other Than Buildings) Are Permitted As Follows:

1. Accessory structures (other than buildings) equal to or less than fifteen (15) feet in height, including satellite dishes with a diameter of thirteen (13) feet or less, shall not be located closer than fifteen (15) feet to the rear and side lot lines and shall be located in the rear yard. Satellite dishes less than three (3) feet in diameter may be located anywhere on a lot provided the minimum front, side and rear yard distance setbacks are maintained and shall not require the issuance of a zoning permit.

2. Accessory structures (other than buildings) greater than fifteen (15) feet in height, including production model Wind Energy Conservation Systems (windmills), antennas and satellite dishes greater than thirteen (13) feet in diameter, shall be located in compliance with the required yard area of the respective district and shall be located in the rear yard.

C. Other Enclosed Storage Is Permitted As Follows:

Semi-trailers, Inter-modal Shipping Containers (cargo containers) and/or motor vehicles or portions thereof (i.e., truck bodies) may be used for accessory storage purposes related to a permitted principal use in the C, LC, I and INT Districts. When used in a C, LC, I or INT District for a period of more than 60 days, such trailers and/or motor vehicles or portions thereof shall be placed or parked in compliance with the provisions of Subsection A of this Section with the exception that they be located in the rear yard. Semi trailers, Inter-modal Shipping Containers (cargo containers) and/or motor vehicles or portions thereof, shall not be used for storage purposes for longer than 60 days in the AG, AG-R, R or MDR Districts except as provided for in SECTION 522. In no instance shall semi trailers, Inter-modal Shipping Containers (cargo containers) and/or motor vehicles or portions thereof be placed in such a manner as to interfere with, or pose a hazard to, traffic circulation. Mobile homes shall not be used for storage purposes.

SECTION 304 **NONCONFORMING USES, BUILDINGS, STRUCTURES AND LOTS**

A. Lawful Existing Uses, Buildings, Structures and Lots

Except as otherwise provided in this Section, the lawful use of land, building or structure existing at the effective date of this Zoning Law may be continued, although such use, building or structure does not conform to the regulations specified in this Zoning Law for the zone in which such land, building or structure is located, provided, however:

1. No lot shall be reduced to a nonconforming size.
2. A nonconforming lot shall not be further reduced in size.
3. A nonconforming building or structure shall not be enlarged, extended or increased unless such enlargement would tend to reduce the degree of nonconformance.
4. An existing mobile home which is occupied as a one-family dwelling on any lot in an AG, AG-R, MDR, or PUD District may be replaced with another mobile home provided that the following criteria, as well as the criteria in Section 601.D. are met.
5. A nonconforming use may not be expanded.

6. No existing conforming use shall be changed to a nonconforming use.
7. Such uses must comply with all applicable state, federal, and other local laws or regulations

B. Abandonment

A nonconforming use shall be deemed abandoned when there occurs a cessation of any such use or activity and a failure on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance.

C. Restoration and Repair

Nothing in this Zoning Law shall prevent the restoration and repair or continuation of use of a nonconforming building or structure destroyed or partly destroyed by a disaster, provided that restoration is commenced within eight (8) months after date of destruction and is completed within sixteen (16) months after date of destruction.

D. Reversion

No nonconforming use shall, if once changed into a conforming use, be changed back again to a nonconforming use.

E. Alterations

A nonconforming building or structure may not be improved during its life to an extent exceeding, in aggregate cost, fifty percent (50%) of the assessed value of the building unless said building is changed to conform to the requirements of this Zoning Law.

F. District Changes

If a nonconforming use is established by a transfer of an area from one district to another after the effective date of this Zoning Law, then the foregoing provisions shall apply to any nonconforming use created by such change.

SECTION 305 USES NOT PERMITTED

Uses, which are not allowed by this Zoning Law, are prohibited.

SECTION 306 MINIMUM HABITABLE FLOOR AREA (See Zoning Schedule A)

A. One-family dwellings shall have a habitable floor area of at least seven hundred twenty (720) square feet.

B. Two-family dwellings shall have a habitable floor area of at least seven hundred twenty (720) square feet per primary unit and five hundred (500) square feet for the second unit.

C. Multiple family dwellings shall have a habitable floor area of at least five hundred (500) square feet per unit.

SECTION 307 **MINIMUM DIMENSIONAL CRITERIA**

All one (1) and two (2) family dwelling units located on individual lots shall have a minimum outside width of at least twenty (20) feet. This provision shall not prohibit the construction of smaller additions or projections from larger units (less than twenty (20) feet wide) provided that the dwelling unit, excluding any such smaller additions or projection has a minimum outside width of twenty (20) feet.

SECTION 308 **DWELLING FRONT YARD GRADE**

Surface grade of front yards of dwellings measured at the midpoint of the front wall, shall be at least one (1) foot above the elevation of the road's center line, unless adequate site drainage is provided otherwise and approved by the Town Highway Superintendent.

SECTION 309 **STABLING AGRICULTURAL ANIMALS**

(See definition in Section 106, page 17)

A. There shall be no stabling of large animals or storage of manure, fertilizer, or similar odor or dust producing substance within the MDR District. Such stabling or storage shall be permitted in the AG, AG-R, or EP Districts provided the following restrictions are observed:

1. No such stabling or storage shall take place within 500 feet of a MDR District.
2. No such stabling or storage shall take place within 75 feet of any adjoining lot line.
3. The stabling of a large agricultural animal(s) including, but not limited to, horses, bovines, pigs, ostriches, goats etc. shall not take place on a lot of less than two (2) acres, except as noted below.
4. The stabling of large agricultural animals on lots of less than two (2) acres may be allowed by Temporary Special Use Permit issued by the Planning Board for no more two (2) years, with the option for renewal. An approved manure

management plan must be presented with the Temporary Special Use Permit Application.

5. The housing of small farm animals, including but not limited to chickens and rabbits, is allowed in AG (Agricultural), AG-R (Agricultural-Residential), and MDR (Medium Density Residential) Districts provided such housing is limited to the rear and side yards, is in accordance with Schedule-A, and that such housing doesn't cause any undue noises and/or odors.

SECTION 310 **FENCES**

A. Fences erected on residential lots in the Town of Pembroke shall adhere to the following standards:

1. Before a fence shall be erected, a zoning permit must be obtained from the Zoning Administration Officer. A request for a permit shall be accompanied by a site plan which shall show the height and location of the fence in relation to all other structures and buildings, and in relation to all adjoining streets, lot property lines and yards.

2. Fences may be erected, altered or reconstructed to a height not to exceed three (3) feet above ground level when located within twenty (20) feet of the street right-of-way.

3. Fences may be erected, altered or reconstructed to a height not to exceed eight (8) feet above ground level when located more than twenty (20) feet from the street right-of-way line.

4. These restrictions shall not be applied so as to restrict the erection of a wall for the purpose of retaining earth.

5. Temporary fencing shall not exceed four (4) feet in height and shall be at least fifty percent (50%) open construction. A temporary fence permit shall be effective for a period not exceeding six (6) months but may be extended by the Zoning Administration Officer for an additional period not exceeding six (6) months upon the showing of good cause.

6. Fencing used to enclose a tennis court may be permitted up to ten (10) feet in height provided that such fencing is not closer than twenty-five (25) feet from a side or rear property line.

7. No fence shall be erected in a special flood hazard area, except for fences connected with an agricultural use when it can be demonstrated that such fence would not restrict the flow of flood waters nor have an adverse impact on any buildings.

8. The finished side of the fence shall face the adjoining properties.

B. Commercial and industrial fences shall be reviewed and approved by the Planning Board as part of the site plan approval process.

C. These restrictions shall not be applied so as to restrict the erection, alteration, or reconstruction of fences for agricultural uses. However, fences used for nonagricultural purposes must comply with these restrictions.

ARTICLE IV **ZONING DISTRICT REGULATIONS**

SECTION 401 **AGRICULTURAL DISTRICT-AG**

The Agricultural (AG) District is designed primarily to preserve farmland and secondarily to preserve the rural nature of the Town. Agricultural and residential uses have a number of inherent conflicts between them. The purpose of this district is to minimize these conflicts by separating such uses by providing an area where agricultural uses are, and will remain primary. Active agricultural operations and agri-business are the predominant uses established in the district. Such uses shall continue to be permitted in this district. A limited number of residences will also be allowed as non-farm one family dwellings fronting on established roads based upon the parcel size as follows:

<u>Size of Original Parcel or Tract of Land</u>	<u>Maximum Number of One Family Dwellings Allowed</u>
1 to 5 acres	1
5.1 to 10 acres	2
10.1 to 20 acres	3
20.1 to 35 acres	4
35.1 or more acres	5

In calculating the above density the size of the parcel or tract of land will be established on the date that this provision of the Zoning Law was adopted (September 13, 1995). The maximum number of dwellings allowed per parcel or tract of land would be five. In addition, the size of each building lot will be 40,000 square feet with 200 feet of lot frontage. This would allow each farmland owner a reasonable amount of development of his/her land, while keeping most good farmland available for future agricultural production. Before a zoning permit can be issued the Planning Board shall be required to do a site plan review, with preserving prime agricultural land as the main criteria in siting the building lots.

A. Permitted Uses

The following uses are permitted in the Agricultural District:

1. Agricultural use
2. One-family dwelling (in conformance with limitations set forth above)
3. Mobile home (see Section 601)
4. Private stable
5. Accessory buildings, structures and uses

B. Uses Requiring Special Use Permit

The following uses are permitted in the Agricultural District upon the issuance of a Special Use Permit:

1. Home occupation (see Section 511)
2. Animal waste storage facility (see Section 513)
3. Public Stable
4. Pond (see Section 515)
5. Public Utility facility (see Section 505)
6. Child day care center
7. Commercial communication tower (see Section 517)
8. Accessory buildings, structures and uses (an additional Special Use Permit is not required but a new or revised site plan must be submitted for review and approval).
9. Kennel

C. Area Regulations

See Zoning Schedule A.

SECTION 402

AGRICULTURAL-RESIDENTIAL DISTRICT (AG-R)

The Agricultural-Residential District (AG-R) is designed to preserve the rural nature of the Town. Primary uses are agricultural and low-density residential uses on lots with a minimum size of 40,000 square feet.

A. Permitted Uses

The following uses are permitted in the Agricultural-Residential District:

1. Agricultural use
2. One and two-family dwelling(s)
3. Mobile home (see Section 601)
4. Religious Institution
5. Public parks, public playgrounds, public libraries, municipal buildings and public water systems and similar public uses.
6. Private stable
7. School
8. Accessory buildings, structures and uses

B. Uses Requiring Special Use Permit

The following uses are permitted in an Agricultural-Residential District upon the issuance of a special use permit:

1. Multifamily dwelling(s)
2. Home occupation (see Section 511)
3. Wind Energy Conversion System (Production Model)
4. Public utility facility (see Section 505)
5. Public stable
6. Commercial greenhouse
7. Cemetery

8. Campground (see Section 510)
9. Mobile home park (see Section 602)
10. Cluster residential development (see Section 508)
11. Child day care center
12. Adult care facility
13. Boarding house
14. Tourist home
15. Animal waste storage facility (see Section 513)
16. Skilled trade shop (see Section 514)
17. Pond (see Section 515)
18. Commercial communication tower (see Section 517)
19. Accessory buildings, structures and uses (an additional special use permit is not required, but a new or revised site plan must be submitted for review and approval).
20. Uses allowed under subsection C. may also be allowed when no other use is viable from subsections A. and B. of this section at locations that are or were previously strictly commercial establishments that have ceased operations.

C. Uses Requiring Special Use Permit On Arterial Highways

The following uses are permitted in an Agricultural-Residential District (in addition to those uses listed in 402.B) upon the issuance of a special use permit provided the affected lot and proposed use fronts directly upon an arterial highway:

1. Hotel-Motel
2. Aircraft landing strip
3. Motor vehicle repair shop (see Section 504)
4. Commercial excavation - minor excavation (see Section 507 B.)
5. Hospital

6. Motor vehicle sales and/or service (see Section 504)
7. Outdoor recreation facility
8. Indoor recreation facility
9. Club
10. Kennel
11. Community center
12. Professional office
13. Nursing home
14. Animal hospital
15. Animal shelter
16. Self-service storage facility
17. Landscaping Contractor's Yard
18. Contractor's Yard (see SECTION 518)
19. Retail, Commercial, Wholesale trade, and/or personal service not exceeding 10,000 sq.ft. of gross floor area.
20. Motor Vehicle Repair Shop (see SECTION 504)
21. Restaurant
22. Self-service Storage Facility
23. Indoor Recreation Facility
24. Outdoor Recreation Facility

D. **Area Regulations**

See Zoning Schedule A

SECTION 403

MEDIUM DENSITY RESIDENTIAL DISTRICT- MDR

The Medium Density Residential District is designed to accommodate primarily residential uses on lots with a minimum area of 20,000 square feet. The purpose of this district is to encourage residential growth in areas of the Town, which have existing concentrations of residential uses. The residential district will allow for more economical provision of public services such as water and sanitary sewer should the need arise at some future date.

A. **Permitted Uses**

The following uses are permitted in the Medium Density Residential District:

1. One and two family dwelling(s)
2. Mobile home (see Section 601)
3. Religious institution
4. Public parks, public playgrounds, public libraries, municipal buildings and public water systems and similar public uses.
5. Agricultural uses, excluding the stabling of animals or the storage of manure, fertilizer, or similar odor or dust producing substances.
6. School
7. Accessory buildings, structures and uses.

B. **Uses Requiring Special Use Permit**

The following uses are permitted in the Medium Density Residential District upon issuance of a special use permit:

1. Multifamily dwelling(s)
2. Wind Energy Conversion System-Production Model (windmill)
3. Home occupations (see Section 511)
4. Professional office
5. Community center
6. Public utility facility (see Section 505)

7. Cluster residential development (see Section 508)
8. Child day care center
9. Adult care facility
10. Boarding house
11. Tourist home
12. Accessory buildings, structures and uses (an additional special use permit is not required, but a new or revised site plan must be submitted for review and approval).

C. **Area Regulations**

See Zoning Schedule A

SECTION 404 **RESIDENTIAL DISTRICT - R**

The Residential (R) District is designed primarily to provide for one family residential uses without permitting commercial uses except for home occupation.

A. **Permitted Uses**

1. One family dwelling
2. Accessory buildings, structures and uses

B. **Uses Requiring A Special Use Permit**

The following uses are permitted in a Residential District upon the issuance of a special use permit:

1. Two-family dwelling
2. Home occupation (see Section 511)
3. Cluster residential development (see Section 508)

C. **Area Regulations**

See Zoning Schedule A

SECTION 405 **LIMITED COMMERCIAL DISTRICT- LC**

The Limited Commercial (LC) District is designed to provide areas within the Town for development of commercial uses of limited size and scope. These districts are located along arterial highways, which provide both visibility and ready access to such uses.

A. Permitted Uses

The following uses are permitted in the Limited Commercial (LC) District:

1. Retail trade and/or personal service not exceeding 10,000 sq. ft. of gross floor area except such uses located in the LC District along RT. 77, south of Cohocton Rd., shall not exceed 5,000 sq. ft. of gross floor area.
2. Accessory buildings, structures and uses.

B. Uses Requiring A Special Use Permit

The following uses are permitted in the Limited Commercial District upon the issuance of a special use permit:

1. One, two or multifamily dwelling(s)
2. Indoor recreation facility
3. Outdoor recreation facility
4. Pond (see Section 515)
5. Public utility facility (see Section 505)
6. Home occupation (see Section 511)
7. Cluster residential development (see Section 508)
8. Child day care center
9. Tourist Home
10. Self-service storage facility
11. Funeral home
12. Crematory
13. Kennel

14. Pet cemetery
15. Animal hospital
16. Commercial communications tower (see Section 517)
17. Motor vehicle repair shop (see Section 504)
18. Restaurant
19. Motor vehicle sales and/or service (see Section 504)
20. Landscaping Contractor's Yard
21. Contractor's Yard (see Section 518)

C. **Area Regulations**

See Zoning Schedule A.

SECTION 406 **COMMERCIAL DISTRICT- C**

The Commercial (C) District is designed to provide areas within the Town for concentrations of commercial uses. These districts are located along major highways to provide for maximum development potential.

A. **Permitted Uses**

The following uses are permitted in the Commercial District:

1. Retail trade
2. Restaurant (excluding drive-in restaurant)
3. Hotel/motel
4. Commercial greenhouse
5. Office building
6. Personal service
7. Wholesale trade
8. Theater

9. Bank (excluding drive-in bank)
10. Accessory buildings, structures and uses

B. Uses Requiring A Special Use Permit

The following uses are permitted in the Commercial District upon the issuance of a special use permit:

1. Drive-in business, including drive-in restaurants and drive-in banks (see Section 504)
2. Motor vehicle repair shop (see Section 504)
3. Gasoline station (see Section 504)
4. Gasoline station-market (see Section 504)
5. Indoor recreation facility
6. Light industrial
7. Motor vehicle sales and/or service (see Section 504)
8. Recreational vehicle and mobile home sales and service
9. Public utility facility (see Section 505)
10. Alterations to existing one-family, two-family and multifamily dwelling(s)
11. Warehouse
12. Shopping center
13. Child day care center
14. Adult care facility
15. Contractor's Yard
16. Carwash
17. Self-service storage facility
18. Outdoor recreation facility

19. Pond (see Section 515)
20. Commercial communication tower (see section 517)
21. Self-service storage facility
22. One, two, or multifamily dwellings
23. Accessory buildings, structures and uses (an additional Special Use permit is not required, but a new or revised site plan must be submitted for review and approval)

C. **Area Regulations**

See Zoning Schedule A.

SECTION 407 **INDUSTRIAL DISTRICT - I**

The Industrial (I) District is designed to provide areas within the Town which are appropriate for industrial type uses. In limiting industrial uses to the Industrial District, it is the Town's intention to minimize the potential adverse impacts of such uses.

A. **Permitted Uses**

The following uses are permitted in the industrial district:

1. Warehouse
2. Heavy machinery and truck sales and service
3. Wholesale trade
4. Contractor's Yard (see Section 518)
5. Accessory buildings, structures and uses

B. **Uses Requiring Special Use Permit**

The following uses are permitted in the Industrial District upon the issuance of a special use permit.

1. Junkyard (see Section 509)
2. Industrial Park

3. Motor vehicle sales and/or service (see Section 504)
4. Recyclables handling and recovery facility
5. Self-service storage facility
6. Manufacturing
7. Truck Stop
8. Trucking terminal
9. Public utility facility (see Section 505)
10. Pond (see Section 515)
11. Alterations to existing one, two and multi-family dwelling(s)
12. Commercial communications tower (see Section 517)
13. Accessory buildings, structures and uses (an additional special use permit is not required, but a new or revised site plan must be submitted for review and approval)

C. **Area Regulations**

See Zoning Schedule A.

SECTION 408 **INTERCHANGE DISTRICT- INT**

The Interchange (INT) District is designed to blend commercial and light industrial uses, thus maximizing the development potential of the NYS Thruway Interchange.

A. **Permitted Uses**

The following uses are permitted in the Interchange District:

1. Hotel/motel
2. Restaurant (excluding drive-in restaurant)
3. Retail trade
4. Personal service
5. Office building

6. Bank (excluding drive-in bank)
7. Wholesale trade
8. Theater
9. Existing residences
10. Warehouse
11. Indoor recreation facility
12. Adult use
13. Religious Institutions
14. Accessory buildings, structures and uses

B. Uses Requiring A Special Use Permit

The following uses are permitted in the Interchange District upon issuance of a special use permit:

1. Drive-in business (see Section 504)
2. Gasoline station (see Section 504)
3. Gasoline station - market (see Section 504)
4. Car wash
5. Motor vehicle repair shop (see Section 504)
6. Farm equipment sales and service
7. Recreation vehicle sales and service
8. Truck stop
9. Public utility facility (see Section 505)
10. Mobile home sales
11. Shopping center
12. Industrial park

13. Self-service storage facility
14. Motor vehicle sales and service
15. Trucking terminal
16. Light industrial
17. Outdoor recreation facility
18. Pond (see Section 515)
19. Commercial communications tower (see Section 517)
20. Accessory buildings, structures and uses (an additional Special Use Permit is not required, but a new or revised site plan must be submitted for review and approval)

C. Area Regulations

See Zoning Schedule A.

SECTION 409 **EARTH PRODUCTS DISTRICT**

The Earth Products district is designed to allow for the mining of valuable earth products.

A. Permitted Uses

None

B. Uses Requiring a Special Use Permit

1. Commercial excavation-major excavation (see Section 507 A.)

SECTION 410 **PLANNED UNIT DEVELOPMENT- PUD**

A. Purpose

The purpose of the Planned Unit Development District is to permit greater flexibility, more creative and imaginative design and utilization of innovative land development techniques while promoting more economical and efficient use of land, buildings, circulation systems and utilities; to provide for both individual building sites and common property which are planned and developed as a unit; to provide harmonious land uses which offer a high level of amenities; to permit a variety of residential types and/or non-residential uses; and to preserve natural and scenic qualities of the site during the development process.

B. General Requirements

1. Minimum Area

The minimum area required to qualify for a Planned Unit Development shall be five (5) contiguous acres of land.

2. Ownership

The tract of land for a Planned Unit Development may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. A petition must be filed by the owner, or jointly by owners, of all property included in a project. In the case of multiple ownership, the approved Planned Unit Development plan is binding on all owners.

3. Location

The Planned Unit Development District shall be applicable to any zoning district or parts of zoning districts where the applicant can demonstrate that the characteristics of his holdings and plan will meet the objectives of this Section and the Town of Pembroke Comprehensive Plan.

4. Common Open Space

Common open space in a Planned Unit Development may be one (1) or more sites for use in common by all of the occupants within the project area or by the residents of the Town as a whole, depending upon dedication of such sites. Such common open space may be retained in private ownership or received in dedication by the Town. If the open space remains in private ownership, arrangements for the operation, maintenance, improvement and liability of such common property and facilities must be approved by the Town Board. No common open space, so designated by the proposal and approved by the Town Board, may be thereafter developed or disposed of except with the approval of the Town Board.

5. Permitted Uses

Any uses identified as permitted uses or uses allowed by special use permit as set forth in this Zoning Law for any district may be permitted at the sole discretion of the Town Board in a Planned Unit Development.

6. Mix of Uses

The mix of permissible uses shall be determined by the Town Board.

C. Application Procedure and Approval Process

1. Conceptual Review

Before submission of a petition for rezoning as a Planned Unit Development, the developer is encouraged to meet with the Town Planning Board to determine the feasibility and suitability of his proposal before entering into any binding commitments or incurring substantial expenses of site plan preparation and the required documentation.

2. Rezoning Procedure

a. Submission of Petition

A petition for the establishment of Planned Unit Development districts shall be submitted to the Town Clerk by the developer (see Paragraph d. of this Subsection).

b. Notification and Referral

Within five (5) working days, the Town Clerk shall notify the Town Board of the petition and shall refer the petition and all supporting documentation to the Planning Board for its review and recommendations.

c. Planning Board Review

Within sixty-two (62) days of receipt of the petition, the Planning Board shall review it and recommend approval, approval with modifications or disapproval thereof to the Town Board. Failure to act within 62 days or such longer period as may be consented to by the developer shall constitute approval of said petition by the Planning Board.

d. Submission Requirements

The developer shall submit a minimum of four (4) sets of such plans, and drawings (additional sets may be required). These four (4) sets shall be submitted to the Town Clerk. The preliminary plans shall be accompanied by such maps, charts and written material necessary for the Boards to make a preliminary judgment on the suitability and impact of the proposed Planned Unit Development on the Town. Preliminary plans should include the following:

(1) A preliminary site plan of the property covered by the petition showing the approximate size and location of the various development areas (road rights-of-way, single-family housing areas, multifamily housing areas, commercial and open space areas, etc.); the number and type of residential structures and dwelling units within each residential area; the approximate square footage of nonresidential use within each nonresidential area; the amount of open space; traffic circulation; and the surrounding land uses.

(2) A written preliminary description of the proposal including the total number of acres in the site; the estimated number and type of housing units; the estimated residential and nonresidential density; the major planning assumptions and objectives; the probable effect on adjoining properties; and the effect on the overall Town development plan and the effect on this Zoning Law.

e. Review Considerations - In review of the preliminary plans, the Planning Board shall consider the manner with which the proposal fits the general pattern of land use established by the Zoning Law, and the impact on the established land uses in the area, overall density of development, traffic circulation, the provision of open spaces, and the effect on schools and other municipal facilities.

f. Town Board Review and Approval - Upon receipt of the Planning Board's recommendation, the Town Board may, after a public hearing and review of the proposed zone change by the County Planning Board, pursuant to General Municipal Law Sections 2391 and m, amend the Zoning Law so as to establish and define the boundaries of the Planned Unit Development. If the rezoning request is approved for the Planned Unit Development, such action does not authorize improvements to the rezoned land.

3. Final Plan

a. Ownership

Before final approval of the Planned Unit Development, the developer must show evidence of the full legal ownership in the land.

b. Submission of Final Plan

Upon approval of the zone change, the applicant has one year in which to submit a final plan to the Town Clerk.

c. Notification and Referral

Within five (5) working days, the Town Clerk shall notify the Town Board of the filing of the final plan and shall refer the final plan and all supporting documentation to the Planning Board for their review and recommendation.

d. Planning Board Review

Within sixty-two (62) days of receipt of the final plan, the Planning Board shall review the final plan and recommend approval, approval with modifications or disapproval to the Town Board. Failure to act within 62 days or such longer period as may be consented to by the developer, shall constitute approval of the final plan by the Planning Board

e. Submission Requirements

The applicant shall submit a minimum of four (4) complete sets of the final plan and drawings (additional sets may be required). These four (4) sets shall be submitted to the Town Clerk. The final plan shall be accompanied by a detailed justification for the proposal including such maps, charts and written material necessary for the Town Board to make an impartial judgment on the suitability and impact of the proposed Planned Unit Development on the Town. Such material shall include, but not be limited to, the following:

(1) A mapped development plan of the property covered by the development showing the size and location of the various development areas (road rights-of-way, single-family housing areas, multifamily housing areas, commercial and open space areas, etc.), the location of proposed residential structures and dwelling units within each residential area, the square footage of nonresidential use within each nonresidential area and the amount of open space.

(2) A written description of the proposal including the major planning assumptions and objectives, the probable effect on adjoining properties, the effect on the overall Town development plan and the effect on this Zoning Law.

(3) Such additional written material, graphs or charts as are necessary to present the total number of acres in the site, the number and type of housing units, the gross and net residential densities, the approximate selling and/or rental prices of the units, and square feet of nonresidential floor area including the approximate selling and/or rental price, the development schedule expressed in units per month (or year or any other appropriate time sequence), the phasing plan (if any), the approximate completion date of the entire project, and the estimated total construction cost of the project upon completion.

(4) Such other written or graphic material as is necessary for the Planning Board to judge the impact of the proposal on the Town. Such material shall include, but not be limited to: the need for new public facilities and the adequacy of existing facilities including a statement of the intent to which the developer intends to provide needed facilities, a fiscal impact statement including a summary of new costs and revenues to the Town due to the development, the projected new population, and the method of assuring that all open spaces will be permanently maintained and devoted to open space uses.

f. Review Considerations - In review of the final plan, the Planning Board shall consider the manner with which the proposal fits the general pattern of land use established by this Zoning Law, and the protection of the established and permitted uses in the area. It shall consider: the location of main and accessory buildings and their relation to one another; the circulation pattern of the site, and the amount, location, and access of parking and off-street loading space facilities; the height and bulk of buildings; the provision of open spaces, landscaped areas, signs, and similar features of the site plan; and the safeguards provided to minimize possible detrimental effects of the proposed development on adjacent property and the surrounding neighborhood; the manner of conformance with the official development policies of the town; the effect on schools and other municipal facilities; and the manner in which natural and scenic characteristics of the site are preserved.

g. Town Board Review and Approval - Upon receipt of the Planning Board's recommendation, the Town Board shall, after a public hearing and review of the final plan by the County Planning Board, pursuant to General Municipal Law Sections 2391 and m, approve, approve with modifications or disapprove the final plan. The Town Board shall make its decision in accordance with official Town development policies and may impose conditions relating to that plan. The decision of the Town Board shall immediately be filed in the office of the Town Clerk and a copy mailed to the applicant by regular mail.

D. Design Standards

1. Area Requirements

The least restrictive area, yard, coverage, height, density and supplementary regulation requirements applicable to a specific use under this Zoning Law shall apply, except where the Planning Board finds that it is in the public interest to modify these requirements and the Town Board approves such modifications.

2. Traffic and Circulation

All proposed public roads shall meet the design and construction specifications set forth by the Town Highway Superintendent and/or Engineer.

Special consideration should be given to pedestrian movement from the standpoint of safety, convenience and amenity. Sidewalks, curbs and gutters should be considered in the design of the overall circulation system.

3. Common Open Space

All common open space should be preserved and maintained for the intended purpose through one or more of the following methods:

- a. Public dedication
- b. Establishment of a Home Owners Association
- c. Retention of responsibilities, control and maintenance by the developer

4. Security

Performance and maintenance bonds or other security may be required at the discretion of the Town Board.

SECTION 411 FLOOD PLAIN OVERLAY ZONE - FPO (Information Only)

The Flood Plain Overlay Zone is shown on the Zoning Map of the Town of Pembroke for information purposes only to identify potential areas of special flood hazard, to insure coordinated review of zoning and flood damage prevention regulations, and to minimize the threat of flood damages. Exact boundaries of the special flood hazard areas can be found on the Federal Emergency Management Agency's (FEMA) most current Flood Insurance Rate Map (FIRM), or equivalent map for the Town of Pembroke (Community Number 360283).

In addition to the Zoning Law, areas within special flood hazard areas are regulated by the Town of Pembroke's Flood Damage Prevention Local Law, which is administered by the Zoning Administration Officer or other designee of the Town Board. These requirements are in addition to those contained in the underlying zoning district.

ARTICLE V **SUPPLEMENTARY REGULATIONS**

SECTION 501 **OFF-STREET PARKING SPACE REQUIREMENTS**

For every building hereafter erected, altered or changed in use, there shall be provided at least the minimum number of off-street parking spaces set forth under this Section. All off-street parking (except for one and two family dwellings) shall be designed in such a manner as to allow vehicles to exit onto a road without backing out onto it.

A. Residential Uses

1. One and two-family dwellings: Two (2) parking spaces for every dwelling unit (inclusive of the driveway).
2. Multiple family dwelling: Five (5) parking spaces for every three (3) dwelling units (exclusive of driveway, except with Planning Board approval).
3. Home Occupations and Craftsman Shops: The number of parking spaces required for the existing residential use (see above), plus what ever additional parking spaces deemed necessary by the Planning Board.

A. Hotel/Motel

Three (3) parking spaces, plus one (1) parking space for every guest room.

B. Places of Public Assembly (i.e. theaters, schools, community centers, religious institutions, etc.)

One (1) parking space for every five (5) seats or one (1) parking space for every one hundred (100) square feet of floor area.

C. Professional Offices

Two (2) parking spaces, plus one (1) space for every two hundred (200) square feet of floor area.

D. Restaurants

One (1) parking space for every one hundred (100) square feet of floor area.

E. Light Industrial, Manufacturing, Wholesale Trade, Warehouse, Truck Stop and Trucking Terminal

One (1) parking space for every motor vehicle used directly in the business, plus additional parking as required by the Planning Board.

F. Other Business and Commercial Uses

One (1) parking space for every motor vehicle used directly in the business, plus one (1) parking space for every two hundred (200) square feet of floor area.

G. Unspecified Uses

As required by the Planning Board, based upon use intensity, turnover, customers, employees and vehicles used.

SECTION 502 **OFF-STREET LOADING SPACE REQUIREMENTS**

Every building used for a business purpose shall provide adequate space for off-street loading and unloading.

SECTION 503 **MODIFICATION OF PARKING AND LOADING REQUIREMENTS**

The Planning Board, under its powers of site plan review and approval, may modify the parking and off-street loading space requirements herein upon good cause being shown.

SECTION 504

**MOTOR VEHICLE, FARM AND HEAVY EQUIPMENT
RELATED USES**

A. Gasoline stations, gasoline station/markets, motor vehicle repair shops, motor vehicle sales and service, truck stop, trucking terminal, heavy machinery and truck sales and service, farm equipment sales and service, recreational vehicles sales and service and drive-in business shall require a special use permit and shall comply with the following:

1. Lots containing such uses shall not be located within three hundred (300) feet of any lot occupied by a school, playground, library or religious institution. Measurement shall be made between the nearest respective lot lines.
2. Lot size shall be at least forty thousand (40,000) square feet.
3. Lot frontage shall be at least two hundred (200) feet.
4. Lot depth shall be at least one hundred fifty (150) feet.
5. Pumps, other service devices, and above ground fuel and oil storage shall be located at least thirty (30) feet from all lot lines.
6. Any underground storage of fuel and oil of sufficient volume not regulated by the New York State Department of Environmental Conservation shall be located at least thirty (30) feet from all lot lines.
7. Unregistered motor vehicle(s), motor vehicle and equipment parts, dismantled vehicles and equipment shall be stored within a building or structure, or within a fence of a height to be determined by the Planning Board, within its sole discretion, so as to prevent public view of such items from any direction. All work connected with the uses covered by this Section shall be preformed to the extent possible indoors. This provision shall apply to both existing and future motor vehicle, farm and heavy equipment related uses.
8. There shall be no more than two (2) access driveways from any street. Maximum width of each access driveway shall be thirty (30) feet.

SECTION 505 **PUBLIC UTILITY FACILITY**

Public utility installations (other than commercial communication antennas and towers, which are covered by Section 517) shall require a special use permit and shall comply with the following:

- A. Such facility shall be surrounded by a fence approved by the Planning Board.
- B. The facility shall be landscaped in a manner approved by the Planning Board.
- C. To the extent practicable, equipment shall be stored so as not to be visible from surrounding properties.
- D. Any other requirements as determined by the Planning Board.

SECTION 506 **SIGNS**

A. General Standards

Except as provided in Section 506.C., every sign (other than temporary signs) shall require a zoning permit. A zoning permit issued for a sign that meets the provisions of SECTION 506 does not require a site plan review by the Planning Board. Also, every sign shall be designed, attached, supported, and located in such a manner as to:

- 1. Not impair public safety.
- 2. Not restrict clear vision between a sidewalk and street, and a driveway, or between two streets.
- 3. Not be confused with any traffic sign or signal.
- 4. Not prevent free access to any door, window, or fire escape.
- 5. Signs may be illuminated by a steady light provided that lighting does not illuminate adjacent property. Flashing, oscillating and revolving signs are not permitted, unless necessary for public safety or welfare.

B. Off-Premises Signs

Off-premises advertising signs are not permitted in any district.

C. Signs Permitted In All Districts Without A Zoning Permit

1. One (1) number and/or name plate identifying residents, mounted on house, apartment or mailbox, not exceeding one (1) square foot in area.

2. One (1) lawn sign identifying residents, not exceeding one (1) square foot, or two (2) square feet if double-faced. Such signs are to be non-illuminated except by a light which is an integral part of a lamppost if used as a support, with no advertising message thereon.

3. One (1) sign identifying the name of the farm owner or name of the farm not exceeding twenty-four (24) square feet in area and located not less than ten (10) feet from a lot line.

4. One (1) "For Sale" or "For Rent" sign not exceeding an area of six (6) square feet. Such sign shall not be greater than six (6) feet in height and shall be located not less than ten (10) feet from a lot line. Such signs shall be removed upon completion of the sale or rental.

5. A sign used on a temporary basis to identify or announce an activity or function including, but not limited to, a construction project and the subcontractor involved, elections, sporting events, carnivals, garage sales, and meetings, etc. Such signs shall not exceed 12 square feet and shall not be located less than five (5) feet from a lot line. Temporary signs shall be removed within ten (10) days after the activity or function ends. Garage sales and farm produce sales temporary signs used more than sixty (60) days per year shall require a permit as set forth in Section 506.D.3.

6. Political Campaign Signs not exceeding four (4) square feet in size, located at least five (5) feet from a lot line, with only one (1) sign per candidate per parcel of property. Candidates of the same political party for various offices may be named on a single sign. Such signs shall not be placed more than sixty (60) days prior to an election and shall be removed within three (3) days after an election.

D. Other Signs Permitted in Agricultural, Agricultural-Residential, or Medium Density Residential Districts

The following signs are permitted in AG, AG-R, or MDR Districts upon issuance of a Zoning Permit.

1. A maximum of two (2) home occupation or skilled trade shop signs not exceeding six (6) square feet in area each and located not less than ten (10) feet from any lot line.

2. One (1) sign identifying a mobile home park in an Agricultural-Residential District, not exceeding twenty (20) square feet in area and located not less than ten (10) feet from a lot line.

3. A maximum of two (2) signs identifying farm produce sales or garage sales not to exceed twelve (12) square feet in combined total signage and located not less than ten (10) feet from a lot line when used sixty (60) or more days per year.

4. One (1) sign identifying a school, church, public park or public building, not exceeding forty (40) square feet in area on any one side and located not less than ten (10) feet from a lot line.

5. One (1) sign for uses which have a valid special use permit to operate. Such sign may either be wall-mounted with a maximum size of 20 square feet, or freestanding with a maximum size of eight (8) square feet per side. Freestanding signs shall be limited in height to 25 feet and not be located within 10 feet of a property line. The final location/placement of all signs for uses allowed by special use permits in the AG, AG-R, and MDR Districts shall be determined by the Planning Board.

6. Off-premises directional signs, for sub-divisions or mobile home parks located in the Town of Pembroke, not exceeding fifteen (15) square feet and limited to two (2) signs per use. Such signs shall be located not less than ten (10) feet from a lot line or the road right-of way.

E. Other Signs Permitted in Commercial, Limited Commercial, Industrial, Interchange or Earth Product Districts

The following business signs are permitted in C, LC, I, INT, or EP Districts upon issuance of a zoning permit subject to site plan review for all new signs (not including new lettering on an existing sign).

1. Two (2) on-premises signs, one of which may be freestanding (except for shopping centers), shall be allowed for each permitted use. If attached, such signs shall not exceed a total area of one hundred (100) square feet or an area equal to ten (10) percent of the wall area of the building or portion thereof devoted to such use or activity, whichever is less. No sign shall project more than one (1) foot from the facade of the building.

2. On-premises freestanding signs shall be permitted. Such signs shall conform to the following provisions relating to their number and size:

a. Each commercial or industrial use, except as limited by Section 506.E.2.b, may have one freestanding business sign, except businesses located on through lots which may have two. Such freestanding sign shall have an area of not more than twenty-five (25) square feet nor be more than twenty-five (25) feet in height, and located not less than ten (10) feet from a lot line.

b. Freestanding signs in a shopping center or industrial park shall be limited to one (1) directory sign at any location thereon not exceeding five (5) square feet in area for

each acre of land in the shopping center or industrial park, provided that no such sign shall exceed thirty (32) square feet in area.

2. Off-premises directional signs for businesses located in the Town of Pembroke, not exceeding thirty-two (32) square feet in size and limited to two (2) signs peruse shall be permitted. Such signs shall be located not less than ten (10) feet from a lot line.

3. Portable Signs. Any sign not permanently attached to the ground or a building. In addition, any temporary sandwich type, sidewalk, or curb sign over 12 square feet in area and/or over four (4) feet in height is considered to be a portable sign. Such signs shall be located not less than (10) feet from a lot line.

D. Nonconforming Signs

1. Nonconforming signs whether on premises or off premises shall be removed at the expense of the owner when the use discontinued. This shall include portable, temporary and permanent signs.

2. Nonconforming signs may not be enlarged, extended, relocated or altered in any way, except to make them conform to provisions of this Zoning Law. This provision shall not restrict routine maintenance of nonconforming signs involving replacement of electrical parts and repainting.

E. Prohibited Signs

The following types of sign are prohibited and shall not be permitted, erected, or maintained in any zoning district and the owner thereof shall upon written notice of the Zoning Enforcement Officer forthwith, in the case of immediate danger, or otherwise within 10 days, make such sign conform with the provisions of this Zoning Law or remove it. If the order is not complied with, the Zoning Enforcement Officer may cause said sign to be removed at the expense of the owner.

1. Any sign, which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, or by obstruction or detraction from the visibility of any traffic control device on public streets and roads.

2. Signs, which obstruct free ingress to or egress from a required door, window, fire escape or other required exit way.

3. Signs, which make use of words such as "STOP", "LOOK", "DANGER", and other words, phrases, symbols, or character in such a manner as to interfere with, mislead or confuse traffic.

4. Any sign which has any visible moving part, visible revolving parts or visible mechanical movement of any description (except time and temperature revolving signs as allowed)

or other apparent visible movement achieved by electrical, electrical or kinetic means, including intermittent electrical pulsations, or by action of normal wind current.

5. Signs or other exterior advertising structure displaying any obscene, indecent, or immoral matter.

F. Interchange District

The Interchange District, a gateway to the community and a vital area for economic development, has been designated for future commercial and industrial development. Within this district, special attention must be paid to signage to ensure an area that reflects the characteristics of the Town of Pembroke.

1. Prohibited signs:

- a. Signs on roofs, dormers and balconies
- b. Billboards
- c. Pole Signs

2. Permitted Signs

- a. Wall mounted signs
- b. Projecting signs
- c. Awning signs
- d. Freestanding signs

Such permitted freestanding signs shall conform to the following provisions relation to their number and size:

Size of Building (sq. ft.)	Maximum size of freestanding sign (sq. ft.,1 side)
5,000	25
5,000-34,999	50
35,000-100,000	75
100,000	100

SECTION 507 COMMERCIAL EXCAVATION

Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of sand, gravel or clay or other natural mineral deposits, or the quarrying of any kind of rock formation shall require a special use permit from the Planning Board as provided for in Sections 409.

A. Major Excavation

1. State Permit

In order to obtain said special use permit, the applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law.

2. Reclamation

The applicant shall further be required to comply with the reclamation standards established by the New York State Department of Environmental Conservation while carrying out such use.

B. Minor Excavation (per Section 402.C.4)

As part of the application process for a special use permit, the applicant's plan shall be presented to the Genesee County Soil and Water Conservation District for its review and comments. Also, before issuing a special use permit, the Planning Board must find that such excavation will not endanger the stability of adjacent land or structures or the quality or quantity of groundwater and that it does not constitute a detriment to public health, safety, or welfare by reason of excessive dust, noise, traffic, erosion, siltation or other condition.

In granting said special use permit, the Planning Board shall specify any reasonable requirement including the following:

1. Minimum Lot Area

The minimum lot area shall be ten (10) acres.

2. Minimum Setback Requirements

All buildings shall be located not less than one hundred (100) feet from any street or property line. The top of the slope of all excavation operations shall be located or shall occur not less than one hundred (100) feet from any street or property line. The setback area shall not be used for any use in conjunction with the excavation and appurtenant activities except for one (1) public notice sign identifying the use of the property, fencing, berms, buffers, access roads and/or parking.

3. Slope

During mining the banks of all excavations shall be maintained at a slope not to exceed the normal angle of repose of such material.

4. Drainage

All surface drainage and any waste matter shall be controlled to prevent any silt, waste products, process residues, etc. from flowing on to public roads, adjacent property or into any stream. Excavation areas shall be planned and graded to avoid collections of stagnant water.

5. Dust

All storage areas, yards, service roads, or other untreated open areas within the boundaries of the excavation area shall be so maintained and improved as to minimize dust or other wind blown air pollutants.

6. Roadside Landscape

Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented in the entire area of the roadside setback for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back the over-burden around the perimeter of the excavation site to create a "berm" for the purpose of screening and noise reduction. No berm shall be constructed within twenty-five (25) feet of any right-of-way line or property boundary lines.

7. Fencing

Fencing may be required depending upon the existence of an earthen berm, the nature of the operations, distance from developed areas, distance from property lines, depth of pit water and slope of pit walls.

8. Topsoil

All topsoil and subsoil shall be stripped from the excavation areas and stockpiled and seeded for use in accordance with the reclamation plan. The location of topsoil to be stored shall be identified. Such stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams, or adjacent property.

9. Erosion

The applicant's plan shall also include a provision for the control of soil erosion.

10. Hours of Operation

All operations shall be conducted between the hours of seven o'clock in the morning (7:00a.m.) and six o'clock in the evening (6:00p.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.

11. Blasting and/or Processing

Operations involving blasting and on-site processing of mineral deposits shall not be allowed.

12. Reclamation Plan

The applicant shall submit a reclamation plan.

13. Performance Bond

A performance bond or some other financial security may be required in the discretion of the Planning Board to assure that the conditions stipulated in the approval of the special use permit are carried out. Any such security shall be in a form and amount acceptable to the Planning Board.

C. Duration of Special Use Permit

The special use permit for a minor excavation shall be issued for a period of one (1) year, subject to a subsequent annual review and re-certification by the Planning Board based on a written request for such continuance, which request shall be submitted to the Town Zoning Administration Officer at least sixty (60) days prior to the expiration of each such one (1) year period. A public hearing shall not be required for such annual re-certification, except upon motion of the Planning or Town Board.

The special use permit for a major excavation shall continue as long as its New York State Department of Environmental Conservation permit remains in effect, it complies with the terms thereof, and it meets the reclamation standards established by the New York State Department of Environmental Conservation.

If on-site mining or processing operations are not carried out continuously for one (1) year for a major or minor excavation, the site shall be considered abandoned, and, prior to any further excavation or processing, a new special use permit shall be required.

SECTION 508 **CLUSTER RESIDENTIAL DEVELOPMENT**

Cluster residential development of one-family dwellings may be permitted, as specified in the New York State Cluster Enabling Act, Chapter 963 of the Laws of 1963, in the AG-R and MDR Districts of the Town provided that a special use permit is obtained and the following conditions are observed:

A. The project shall encompass a minimum land area often (10) acres.

B. The developer shall dedicate all un-subdivided lands to permanent open space. In no case shall such lands be less than twenty-five (25) percent of the total project area. All such lands shall be suitable, in the opinion of the Planning Board, for the intended use. Such lands shall be offered for dedication to the Town Board.

C. The developer shall seek preliminary, non-binding, informal conditional approval of the Planning Board of the design and arrangement of streets, lots, open spaces, and other elements of the project prior to filing the special use permit application.

D. The overall density, maximum building height and maximum lot coverage requirements as set forth in Zoning Schedule A of this Zoning Law for the district involved apply to the entire cluster development project, whereas the minimum frontage, and side and rear yard requirements for the applicable district apply only to the outer lots of said cluster residential development. The Planning Board may modify all other area requirements as set forth in Zoning Schedule A.

SECTION 509 **JUNKYARDS**

A. Establishment

No person shall establish, operate, or maintain a junkyard until he has obtained a special use permit in compliance with Section 708 and shall have obtained an annual license in compliance with Local Law Number 2 of 1985 known as The Recycling Operations Code of the Town of Pembroke, New York, together with any future amendment(s) thereto.

B. Regulations

All junkyards shall comply with all regulations set forth in said Local Law Number 2 of 1985 together with any future amendment(s) thereto. **See Addendum A**

SECTION 510 **RECREATIONAL VEHICLES AND CAMPGROUNDS**

A. Recreational Vehicles

1. Recreational vehicles may only be temporarily occupied as a dwelling as follows:

a. As provided in Section 510 B.

b. For not more than two separate periods, per year, not exceeding two (2) weeks each, one recreational vehicle may be used as a temporary dwelling while parked on the same lot as a permanent dwelling.

c. With a temporary use permit, a recreational vehicle may be used as a temporary dwelling for a period not to exceed six (6) months and subject to the following conditions:

-Approval shall be granted by the Genesee County Health Department.

-Any connections must be removed and the recreational vehicle moved to an approved parking location upon expiration of such permit.

2. An unoccupied recreational vehicle may be stored anywhere except in the required front or side yard areas of a lot not less than fifteen (15) feet from any lot line or public right-of-way. When so stored no connections shall be permitted.

B. Campgrounds

1. Location

A campground shall be located and maintained only in an AG-R District upon issuance of a special use permit and in accordance with the standards set forth in this Zoning Law.

2. Existing Campgrounds

In addition to the nonconforming use regulations set forth in Section 304, all existing campgrounds must comply with this Section whenever any addition, expansion or alteration (changes affecting lot size or layout, streets and utilities) of the use or operation is proposed.

3. Standards and Requirements for the Construction of Campgrounds

Before a special use permit for a campground is issued under Section 708, the Planning Board shall determine that the proposed use is designed and arranged in accordance with the following standards.

(a) Site

The campground shall be located on a well-drained site which is properly graded to insure rapid drainage so as to be free at all times from stagnant pools of water.

(b) Lots

Each campground shall be divided into lots. The total number of lots shall not exceed twelve (12) per gross acre. Each lot shall have a total area of not less than two thousand five hundred (2,500) square feet with a minimum width of thirty (30) feet. Only one recreational vehicle or tent shall be permitted to occupy any one lot. Each lot shall have a stand of sufficient size and durability to provide for the placement and removal of a recreational vehicle and for the retention of such recreational vehicle in a stable condition. The stand shall be suitably graded to permit rapid surface drainage.

(c) Setbacks

All recreational vehicles, or occupied tents situate in campgrounds shall not be located nearer than a distance of:

- Twenty-five (25) feet from an adjacent property line, except residential property.
- One hundred (100) feet from any adjacent residential property line.
- One hundred (100) feet from the right-of-way of a public street/ highway.
- Ten (10) feet from the nearest edge of any street located within the park.

(d) Accessibility

Each campground shall be easily accessible from an existing public road with entrances and exits designed and strategically located for the safe and convenient movement into and out of the campground to minimize conflicts with the movement of traffic on a public road. All entrances and exits shall be at right angles to existing public roads and of sufficient width to facilitate the turning movements of recreational vehicles.

(e) Street System

(1) Each campground shall have improved streets to provide convenient access to all lots and other important facilities within the campground.

(2) The street system shall be so designed to permit safe and convenient vehicular circulation within the campground.

(3) All streets shall have the following minimum width:

-One-way traffic movement - twelve (12) feet.

-Two-way traffic movement - twenty (20) feet.

(4) Except in cases of emergency, no parking shall be allowed on such streets.

(5) Adequate access shall be provided for each lot. Such access shall have a minimum width often (10) feet.

(f) Utilities

All campground sewer and water facilities shall comply with the regulations of the Genesee County Department of Health and the New York State Department of Environmental Conservation.

(g) Open Space

Any campground designed for twenty (20) or more sites shall provide a common open area suitable for recreation and play purposes. Such open space shall be conveniently located. The open space area shall be at least ten (10) percent of the gross land area of the campground but not less than one (1) acre.

(h) Improvements

Lighting, landscaping and buffer areas may be required by the Planning Board and shall be in keeping with surrounding development, the unique features of the site and the health and safety of occupants of the campground.

(i) Management

Every campground shall be managed from an office located on the premises. The management shall maintain the campground in a clean and attractive manner, and take

reasonable steps to protect the health, safety and comfort of all persons accommodated therein.

(j) Removal of Wheels

Unless written consent is received from the Planning Board, it shall be unlawful to remove wheels from any recreational vehicle or otherwise permanently affix such recreational vehicle to the ground. Such removal shall be grounds for the revocation of the special use permit for such campground.

(k) Fence

The Planning Board is authorized to require that some or the entire campground be fenced if circumstances warrant. The Planning Board shall decide what type of fencing is suitable.

(l) Where dwellings are located within 1,000 feet of the campground, it shall be the responsibility of the campground owner to maintain relative quiet during the hours of 10:00 p.m. to 7:00a.m.

(m) Campground Special Use Permits

(1) Pursuant to Section 708.D, the Zoning Enforcement Officer shall inspect at least annually the operation of a campground to make sure it complies with provisions of this Zoning Law and any and all conditions prescribed by the Planning Board when issuing the special use permit.

(2) Before receiving a Special Use Permit for a campground, the owner thereof shall make an adequate showing that the subject property complies with this Section.

SECTION 511 **HOME OCCUPATIONS**

A. Purpose

The purpose of this provision is to allow for home occupations, which are compatible with the neighborhoods in which they are located. Some home occupations by the extent of the investment required therefore and/or the nature of their operation, have a tendency of increasing beyond the scope of a home occupation and thereby violating the use provisions of the zoning district in which such home occupation exists and adversely affecting surrounding property values.

B. Process

An applicant may apply to the Planning Board for a special use permit to establish a home occupation in the AG, AG-R or MDR Districts.

C. Conditions

The following conditions are intended to insure both that the home occupation is secondary to the residential use and that it is compatible with the residential character of the neighborhood:

1. The home occupation shall be carried on inside the principal dwelling and/or inside a building or other structure accessory thereto.
2. No alteration to the exterior of the principal dwelling and/or the accessory building or structure shall be made which changes the residential character thereof.
3. No more than two (2) nonresident persons shall be employed in the home occupation.
4. Not more than 25% of the floor area of the principal dwelling may be used for the home occupation and the total floor area to be utilized (including accessory buildings and structures) shall not exceed 500 sq. ft.
5. There shall be no exterior advertising of the home occupation, except for a maximum of two (2) signs not to exceed six (6) square feet each for which a permit has been obtained pursuant to the provisions of Section 506.D.1.
6. There shall be no exterior storage of materials used in the home occupation.
7. No home occupation shall result in:
 - a. Dissemination of noise, vibration, smoke, observable gas or fumes, or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted.
 - b. Hazard of fire explosion or other physical hazard to any person, building, or vegetation.
 - c. Radiation or interferences with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or the testing of material or instruments in such manner as to constitute a public nuisance.
8. Adequate parking shall be provided as set forth in Section 501. Such off-street parking shall be located not less than ten (10) feet from any property line.
9. No residential lot shall contain more than one (1) home occupation.

SECTION 512 **ROADSIDE STANDS**

- A. Roadside stands may be located in any district except EP
- B. Goods sold shall be farm produce or products derived there from including, but not limited to, fruits, vegetables, flowers, honey, jams, maple syrup, home canned fruits and vegetables, some of which shall be homegrown.
- C. There shall be a front yard setback of at least twenty (20) feet and side yard setbacks of at least twenty-five (25) feet each.
- D. Stands shall not exceed 500 sq. ft., excluding any awnings or roof overhangs.
- E. Off-street parking shall be provided for a minimum of three (3) vehicles with additional parking if traffic warrants.
- F. Signs are permitted as set forth in Section 506, D. 3.
- G. Roadside stands shall require a zoning permit.

SECTION 513 **ANIMAL WASTE STORAGE FACILITIES**

All proposals for installation and/or modification of animal waste storage facilities shall be submitted to the Genesee County Soil and Water Conservation District (GCSWCD) for their review and determination as to acceptability. If a proposal is acceptable to GCSWCD then the Planning Board will consider the potential impacts posed by such a facility upon surrounding land uses prior to taking final action.

SECTION 514 **SKILLED TRADE SHOP**

The purpose of this provision is to allow for residents within the AG-R District, which are self-employed skilled trades persons (including carpenter, cabinet/furniture maker, plumber, electrician) to operate a shop for fabrication of fixtures, cabinets, furniture, etc. for installation by them at their various job sites. No retail sales of materials and/or products directly to the public shall be allowed on site. It is recognized that operation of such shops without adequate regulations and conditions may pose adverse impacts upon neighboring residential uses.

A. Process

An applicant may apply to the Planning Board for a special use permit to establish a skilled trade shop in the AG-R District.

B. Conditions

The following conditions are intended to insure both that the skilled trade shop is secondary to the residential use and that it is compatible with the residential character of the neighborhood:

1. The skilled trade shall be carried on inside the principal dwelling and/or inside a building or other structure accessory thereto.
2. No alteration to the exterior of the principal dwelling and/or the accessory building or structure shall be made which changes the residential character thereof.
3. No more than one (1) nonresident persons shall be employed in the skilled trade shop.
4. Not more than 25% of the floor area (with a maximum of 500 sq. ft.) of the principal dwelling may be used for the skilled trade shop. Occupation of accessory buildings to be utilized shall not exceed 2,000 sq. ft.
5. There shall be no exterior advertising of the skilled trade shop, except for a maximum of two (2) signs not to exceed six (6) square feet each for which a permit has been obtained pursuant to the provisions of Section 506.D.1.
6. There shall be no exterior storage of materials used or products/fixtures made in the skilled trade shop.
7. No skilled trade shop shall result in:
 - a. Dissemination of noise, vibration, smoke, observable gas or fumes, or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted.
 - b. Hazard of fire explosion or other physical hazard to any person, building, or vegetation.
 - c. Radiation or interferences with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or the testing of material or instruments in such manner as to constitute a public nuisance.
8. Adequate parking shall be provided as set forth in Section 501. Such off-street parking shall be located not less than ten (10) feet from any property line.

9. No residential lot shall contain more than one (1) skilled trade shop. No residential lot shall contain a skilled trade shop together with a home occupation or any other non-residential use requiring a special use permit.

10. The Planning Board may require as a condition of the special use permit that the applicant install and maintain a buffer strip and/or fencing between the proposed skilled trade shop and neighboring residential uses if the Board determines such condition is a reasonable mitigation factor.

SECTION 515 PONDS

The purpose of this section is to provide for the construction of ponds that are adequately designed and located so as to not pose adverse impacts upon surrounding land uses. Farm water supply, conservancy and fire protection or other ponds may be located within the AG, AG-R, C, LC, I and INT Districts upon issuance of a special use permit provided the following criteria are met:

- The proposed pond is located not less than 100 feet from any property line. This setback distance shall be measured from the edge of the surface of the water at its highest level.
- The proposed pond design is deemed acceptable by the Genesee County Soil and Water Conservation District (GCSWCD).
- The pond is constructed in conformance with the design specifications in Subsection B of this Section, including any reseeding or re-vegetation requirements.
- Any soil excavated in the construction of a pond shall not be removed from the affected parcel without the specific authorization of the Planning Board in issuing the Special Use Permit.
- A storm water/erosion control basin or similar structure is exempt from provisions of this Section, Section 303 and/or Zoning Schedule A if it is part of a site plan for a commercial and/or industrial use(s), or subdivision development.

SECTION 516 **ADULT ESTABLISHMENT**

A. Purposes

The Town of Pembroke conducted a study of the potential secondary affects posed by adult establishments. This study, along with other similar studies, has shown buildings and establishments operated as adult establishments pose secondary effects which may have a detrimental and harmful impact to the health, safety, morals and general welfare of a community. In order to promote the health, safety, morals and general welfare of the residents of the Town of Pembroke, this Section is intended to control such secondary affects of adult establishments by restricting such uses to the Interchange (INT) District(s) of the Town, and otherwise regulate their operation.

B. Definitions

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

1. Adult Establishment -A commercial establishment including but not limited to adult book store, adult eating or drinking establishment, adult theater, adult motel, adult massage establishment, nude model studio or other adult commercial establishment, or any combination thereof, as defined below:

a. An adult bookstore is a bookstore which has as a "substantial portion" (equal to or greater than 25%) of its stock-in-trade and/or floor area as hereinafter defined any one or more of the following:

(1) Books, magazines, periodicals or other printed matter which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical area"; or,

(2) Photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

b. An adult eating or drinking establishment is an eating or drinking establishment which regularly features any one or more of the following:

(1) Live performances which are characterized by an emphasis upon the depiction or description of "specified anatomical areas" or "specified sexual activities"; or,

(2) Films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas", and

(3) Employees who as part of their employment, regularly expose to patrons "specified anatomical areas", and which is not customarily opened to the general public during such features because it excludes minors by reason of age.

c. An adult theater, is a theater which regularly features one or more of the following:

(1) Films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas"; or,

(2) Live performances which are characterized by an emphasis upon the depiction or description of "specified anatomical areas" or "specified sexual activities", and which is not customarily opened to the general public during such features because it excludes minors by reason of age.

(3) An adult theater shall include commercial establishments where such materials or performances are viewed from individual enclosures.

d. An adult motel is a motel which makes available to its patrons in their room films, slide shows, video tapes or other visual representations with an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas."

e. An adult massage establishment is any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed massage therapist, or duly licensed physical therapist; or barber shops or beauty parlors in which massages are administered only to the scalp, face, neck and shoulders. This definition shall also exclude health clubs, which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

f. A nude model studio is any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration, other than as part of a course of instruction offered by an educational institution established pursuant to the Laws of New York State.

g. Any other adult commercial establishment is a facility- other than an adult bookstore, adult eating or drinking establishment, adult theater, adult motel, adult massage establishment, nude model studio, or business or trade school - which features employees who as part of their employment, regularly expose to patrons "specified anatomical areas" and which is not customarily open to the general public during such features because it excludes minors by reason of age.

1. For the purpose of defining adult establishments, "specified sexual activities"

are: (i) human genitals in a state of sexual stimulation or arousal; (ii) actual or simulated acts of human masturbation, sexual intercourse, or sodomy; or (iii) fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast.

"Specified anatomical areas" are: (i) less than completely and opaquely concealed (a) human genitals, pubic region, (b) human buttock, anus or (c) female breast below a point immediately above the top of the areola; or (ii) human male genitals in a discernibly turgid state, even if completely and opaquely concealed.

For the purpose of determining whether a "substantial portion" of an establishment includes an adult bookstore the following factors shall be considered: (1) the amount of floor area and cellar space accessible to customers and allocated to such uses; and (2) the amount of floor area and cellar space accessible to customers and allocated to such uses as compared to the total floor area and cellar space accessible to customers in the establishment.

For the purpose of determining whether a bookstore has a "substantial portion" (equal to or greater than 25%) of its stock in materials defined in paragraphs (a) (1) or (a) (2) hereof, the following factors shall be considered: (1) the amount of such stock accessible to customers as compared to the total stock accessible to customers in the establishment; and (2) the amount of floor area and cellar space accessible to customers containing such stock; and (3) the amount of floor area and cellar space accessible to customers containing such stock as compared to the total floor area and cellar space accessible to customers in the establishment.

2. Person - A person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

3. Substantial- For the purposes of the Section the term "substantial" shall mean an amount equal to or greater than 25 percent of the total.

C. Restrictions Affecting Adult Establishment

Adult establishments, including but not limited to adult bookstore, adult eating or drinking establishments, or adult theater shall be permitted subject to the following restrictions:

1. No such adult establishment shall be within one hundred (100) feet of another existing adult establishment.

2. No such adult establishment shall be located within one hundred (100) feet of the boundaries of any Residential (R), Medium Density Residential (MDR) or Agricultural Residential (AG-R) Zoning District or within five hundred (500) feet of any existing residential use located on another lot.

3. No such adult establishment shall be located within one thousand (1,000) feet of a pre-existing school, place of worship, playground or park.

4. No such adult establishment shall be located in any zoning district except the Interchange (INT) District(s).

5. Only one adult establishment shall be permitted on a zoning lot.

D. Prohibition Regarding Public Observation

No adult establishment shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

SECTION 517 **COMMERCIAL COMMUNICATION TOWER**

No commercial communication tower or antenna(s) shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these regulations.

A. Shared Use of Existing Towers and/or Structures

At all times, shared use of an existing tower and/or structure (i.e., another Commercial communications tower, water tower, building, etc.) shall be preferred to the construction of a new commercial communication tower. An applicant shall be required to present an adequate report inventorying existing towers or other structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new communication tower. The installation of a commercial communications antenna(s) on an existing structure located within the AG, AG-R, LC, and C districts shall be considered a permitted accessory use not subject to Site Plan Review, Provided the following criteria are met:

1. The existing structure is not increased in height or otherwise modified so as to change its visual appearance,

2. The antenna(s) do not extend above such structure more than ten (10) feet, and

3. The applicant provides the necessary documentation to the Zoning Administration Officer to verify the existing structure and proposed antenna(s) installation would comply with the NYS Uniform Fire Prevention and Building Code

4. An applicant proposing to share use of an existing tower and/or structure shall be required to document intent from an existing tower/structure owner to allow shared use.

B. New or Altered Towers and/or Structures

The Planning Board may, in its sole discretion, consider a new or altered (including tower or structure which are modified, reconstructed, or changed) commercial communication tower/structure where the applicant demonstrates to the satisfaction of the Planning Board that shared usage of an existing tower/structure is impractical. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers or other structures as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and responses for shared use shall be provided.

The applicant shall be required to submit a site plan in accordance with Section 708 (Site Plan Review provisions need to be added) for all commercial communication towers that are proposed to be erected, moved, reconstructed, changed or altered. Site Plan review will also be required in those instances when antenna(s) are being added to existing structures not in compliance with the criteria set forth in Subsection A of this Section. In addition to Section 708, the site plan shall show all existing and proposed structures and improvements including roads, buildings, tower(s), guy wire anchors, parking and landscaping and shall include grading plans for new facilities and roads.

C. Supporting Documentation

The Planning Board shall require that the site plan include a completed Visual Environmental Assessment Form (Visual EAF- SEQR), and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antenna and justification for any required clearing. The applicant must provide a coverage/interference analysis and capacity analysis that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the cellular system and to provide adequate portable cellular telephone coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF in addressing this Subsection and Subsections J and K of this Section.

D. Shared Usage of Site with New Tower

Where shared usage of an existing tower or other structure is found to be impractical, as determined in the sole discretion of the Planning Board, the applicant shall investigate shared usage of an existing tower or other structure site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection B of this Section. Any new commercial communication tower approved for a site with an existing tower or other structure site shall be subject to the standards of Subsections F through N of this Section.

E. New Tower at a New Location

The Planning Board may consider a new commercial communication tower on a site not previously developed with an existing tower or other structure when the applicant demonstrates that shared usage of an existing tower site is impractical, as determined in the sole discretion of the Planning Board, and submits a report as described in Subsection B of this Section.

F. Future Shared Usage of New Towers

The applicant must design a proposed commercial communication tower to accommodate future demand for commercial broadcasting and reception facilities. This requirement may be waived provided that the applicant demonstrates, in the sole discretion of the Planning Board, that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:

1. The number of Federal Communications Commission (FCC) licenses foreseeably available for the area;
2. The kind of tower site and structure proposed;
3. The number of existing and potential licenses without tower spaces;
4. Available spaces on existing and approved towers; and
5. Potential adverse visual impact by a tower designed for shared usage.

G. Setbacks for New Towers

All proposed commercial communication towers and accessory structures shall be set back from abutting residential parcels, public property or street lines a distance sufficient to contain on-site substantially all ice-fall or debris from tower failure and preserve the privacy of adjoining residential properties.

1. All commercial communication tower bases must be located at a minimum setback from any property line at a distance at least equal to the tower height, or the distance between the tower base and guy wire anchors, or the minimum setback of the underlying zoning district, or a minimum setback at a distance which shall be established in the sole discretion of the Planning Board based on the unique characteristics of the site, whichever of the foregoing is greater. The minimum setback requirement of this paragraph may be increased in the sole discretion of the Planning Board, or it may be decreased, again in the sole discretion of the Planning Board, in those instances when the applicant has submitted plans for a tower designed in such a manner as to collapse within a smaller area. Such tower design and collapse zone must be acceptable to the Town Engineer and the Planning Board.

2. Accessory structures must comply with the minimum setback requirements in the underlying district.

H. Visual Impact Assessment

The Planning Board shall require the applicant to undertake a visual impact

assessment of any proposed new towers or any proposed modifications of an existing tower that will increase the height of the existing tower. Construction of a new commercial communication tower or modification of an existing tower shall be subject to those guidelines and criteria listed below that the Planning Board, in its sole discretion, deems appropriate at the pre-submission conference:

1. Assessment of "before and after" views from key viewpoints both inside and outside of the Town, including state highways and other major roads, from state and local parks, other public lands; from any privately-owned preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers.

2. Assessment of alternative tower designs and color schemes, as described in Subsection I below.

3. Assessment of visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

I. New Tower Design

Alternate designs shall be considered for new towers, including lattice and single pole structures. Plans should show that the owner of the commercial communication tower has agreed to permit other persons to attach other communication apparatus which do not interfere with the primary purposes of the commercial communication tower, provided that such other persons agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment. The design of a proposed new tower shall comply with the following:

1. Unless specifically required by other regulations, all towers shall have a neutral, earth tone, sky tone or similar finish that will minimize the degree of visual impact that the new tower may have. Artificial lighting, including strobes, beacons and other hazard avoidance lighting, shall be limited to that required by the Federal Aviation Administration (FAA) or other governmental agency, recognized safety guidelines and the Planning Board.

2. Any new tower shall be designed and constructed to have the minimum height and carrying capacity needed to provide future shared usage (co-locating of a minimum of two additional antennae).

3. The Planning Board may request a review of the application by the Town Engineer, or other engineer selected by the Planning Board, for evaluation of need for and design of any new tower. The costs associated for such review shall be borne by the applicant.

4. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

5. No portion of a tower may be used for signs or advertising purposes, including company name, banners, streamers, etc.

6. The applicant shall provide documentation acceptable to the Planning

Board that certifies the operation of the proposed commercial communication tower facility will not interfere with usual and customary transmission or reception of radio, television or other communication equipment.

7. Space on communication towers shall be made available for public safety purposes (including the Genesee County Public Safety Radio System) at no cost to public safety agencies.

J. Existing Vegetation

Existing on-site vegetation shall be preserved to the maximum extent possible and no cutting of trees exceeding four (4) inches in diameter (measured at a height of (4) feet off the ground) shall take place prior to approval of the special use permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.

K. Screening

Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all commercial communication towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least ten (10) feet in height within two (2) years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

L. Access

Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize grounds disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

M. Parking

Parking shall be provided in accordance with Section 501. No parking space shall be located in any required yard.

N. Fencing

Sites of proposed new commercial communication towers and sites where modifications to existing towers are proposed shall be adequately enclosed by a fence eight (8) feet in height from finished grade, unless the applicant demonstrates to the sole discretion of the Planning Board that such measures are unnecessary to ensure the security of the facility. Such security fencing shall surround

the tower base as well as each guy anchor.

O. Maintenance and/or Performance Bond

Prior to approval of any application, the Planning Board, in its sole discretion, may require the applicant and/or owner to post and file with the Town Clerk a maintenance and/or performance bond or other form of security acceptable to the Town Attorney, in an amount sufficient to cover the installation, maintenance and/or construction of said tower during its lifetime and provide for its removal. The amount required shall be determined in the sole discretion of the Planning Board, based upon the unique characteristics of the tower and site. In furtherance of the foregoing, the applicant and/or owner shall cooperate with the Planning Board in supplying all necessary construction and maintenance data to the Board prior to approval of any application to accomplish the foregoing.

P. Removal of Obsolete/ Unused Facilities

Approval of a new commercial communication tower facility shall be conditioned upon the applicant's agreement to remove such facility once it is no longer used. Removal of such obsolete and/or unused commercial communication towers facilities shall take place within twelve (12) months of cessation of use. The applicant shall submit an executed removal agreement with their application to ensure compliance with this requirement.

SECTION 518

CONTRACTOR'S YARD

A. Establishment

No person shall establish, operate or maintain a Contractor's Yard until they have obtained a special use permit issued by the Planning Board in accordance with all applicable provisions of this Local Law.

B. Location Requirements

Said use shall not be located within the required front and side yard setback, or one hundred (100) feet from any body of water. In reviewing this special use application the Planning Board shall take into account the nature and development of surrounding property, such as the proximity of surrounding residences.

C. Aesthetic Consideration

The Planning Board shall also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from

having an unfavorable effect thereon. In this connection the Planning Board may consider collectively the type of road servicing the contractor's yard or from which the contractor's yard may be seen, the natural or artificial barrier protecting the contractor's yard from view, the proximity of the proposed contractor's yard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the contractor's yard. Required yards shall be mowed as needed and shall be kept free of unsightly growth. The planting of trees and shrubs to naturally screen the contractor's yard shall be encouraged.

D. Fencing

Before use, the equipment and materials storage area of a new contractor's yard shall be completely surrounded with a fence at least eight (8) feet in height which substantially screens said area and shall have a suitable gate which shall be closed and locked except during the working hours of said use. Such fence shall be erected in a manner acceptable to the Planning Board. All materials stored or deposited at the site shall be kept within the enclosure of the fence except during transportation of the same in the reasonable course of business. Where the topography, land forms, natural growth of trees or other considerations accomplish the purpose of this Section in whole or in part, the fencing requirements hereunder may be reduced by the Planning Board, provided however, that such natural barrier conforms with the purpose of this section.

E. Existing Contractor's Yards

All contractor's yards, existing at the time of adoption of this amendment to the Zoning Law shall file an acceptable site plan within sixty (60) days of the enactment of this amendment and upon written notice to the property owner and shall be limited to the size, area and scale of the use and operation at that time unless a special use permit is authorized in accordance with this regulations. Failure by an existing operator to file an acceptable site plan within the required time limit shall constitute a violation as set forth in Section 709.

F. Annual Review

Pursuant to Section 708 D, the Zoning Enforcement Officer shall at least annually inspect the use of the property in question to insure compliance with conditions, which have been imposed by the Planning Board in issuing such special use permit and other applicable provisions of this Zoning Law.

SECTION 519

OUTSIDE SOLID FUEL BURNING DEVICES

1. Outside solid fuel burning devices shall be permitted by a special use permit and require a site plan review.
2. Outside solid fuel burning devices shall not be installed in an MDR, R or C District or within 500 feet of such districts. When installed in AG, AG R or LC Districts, such units shall be installed and operated ensuring that the following criteria are met:
 - a. The outside solid fuel burning devices shall be located twenty-five feet from the property line.
 - b. The outside solid fuel burning devices shall be located one hundred (100) feet from any residence.
 - c. All outside solid fuel burning devices shall be constructed, established, installed, operated and maintained in conformance with the New York State Uniform Code.
 - d. Only firewood, untreated lumber, and other manufacturer approved fuels shall be burned in these units.

SECTION 520

COMMERCIAL WIND ENERGY SYSTEMS

The purpose of this section is to preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system and to allow for the orderly development of land, protect property values, aesthetic conditions. This Section does not repeal, annul, impair, or interfere with any existing local law.

It is unlawful for any person to construct, install, maintain, modify, or operate a wind energy system that is not in compliance with this Section or with any condition contained in a Special Use or Zoning Permit issued pursuant to this Law.

A. **PERMIT REQUIREMENTS**

1. **Special Use Permit**

A Special Use Permit is required for Commercial Wind Energy Systems and for any wind energy system, or a component thereof, except for Non-commercial Wind Energy Systems located in County-adopted, State certified Agricultural Districts for primary on-farm use.

2. **Zoning Permit**

A Zoning Permit and Site Plan Review are required for the installation of a wind tower that is part of any wind energy system.

3. Expiration

a. The wind energy system is not installed and functioning within 2-years from the date the permit is issued; or

b. The Commercial Wind Energy System is unused, out of service or otherwise, for a continuous 12-month period.

4. Fees

a. The Application for a Special Use Permit for a Commercial or Non-commercial Wind Energy System, except for Non-commercial Wind Energy Systems locate in County-adopted, State-certified Agricultural Districts must be accompanied by the fee required for a Special Use Permit.

b. The application for a Zoning Permit for each tower in a Commercial Wind Energy System must be accompanied by the fee required for a Zoning Permit for an accessory use.

c. The application for a Zoning Permit for a tower in a Non-commercial Wind Energy System must be accompanied by the fee required for a Zoning Permit for a principle use.

5. Financial Assurance

The owner of a wind energy system, other than a Non-commercial Wind Energy System, must provide a performance bond, completion bond, or other financial assurance that guarantees the performance of the restoration of the land developed for the wind energy system.

B. RESTORATION REQUIREMENTS

1. A wind energy system that is out of service for a continuous 12-month period or any wind energy system found to be unsafe by the Building Code Enforcement Officer and not repaired by the owner to meet federal, state and local safety standards within six months will be deemed to have been abandoned. The Zoning Enforcement Officer may issue a Notice of Abandonment in form of a letter to the owner of a wind energy system that is deemed to have been abandoned. The Zoning Enforcement Officer will withdraw the Notice of Abandonment if the owner provides information within 30 days from the date of the Notice that causes the Zoning Enforcement Officer to determine that the wind energy system has not been abandoned.

2. The owner of a wind energy system must provide the Zoning Enforcement Officer with a written Notice of Termination of Operations if the operation of a wind energy system is terminated.

3. Within 3 months of receipt of Notice of Abandonment or within 6 months of providing Notice of Termination of Operations, the owner of a wind energy system must

- a. Remove all wind turbines, above ground improvements, and outdoor storage;
- b. Remove all foundations, pads, and underground electrical wires to a depth of 4 feet below the surface of the ground; and
- c. Remove all hazardous material as defined by NYSDEC from the property and dispose of the hazardous material in accordance with federal and state law.
- d. All disturbed areas will be decompacted and the topsoil will be replaced to original depth reestablishing original contours where possible

C. SPECIAL USE PERMIT OR ZONING PERMIT REQUIREMENTS

In addition to those criteria set forth under other Sections of this Law the Town shall consider the following factors when setting conditions upon Special Use Permits or Zoning Permits issued for all wind energy systems and may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense:

- 1. Proposed ingress and egress
- 2. Proximity to transmission lines to link the system to the electric power grid
- 3. Number of wind towers and their locations
- 4. Nature of land use on adjacent and nearby properties
- 5. Location of other wind energy systems in the surrounding area
- 6. Surrounding topography
- 7. Proximity to residential structure, residential zoning districts, or areas identified for future residential use
- 8. Design characteristics that may reduce or eliminate visual obtrusiveness
- 9. Possible adverse effect on migratory birds, and other animals and wildlife.
- 10. Possible adverse effects on stray voltage, interference with broadcast signals, shadow effect, and noise
- 11. Impact on the orderly development, property values, and aesthetic

conditions

12. Possible adverse effects on groundwater quality or quantity
13. Recommendations of the Town Board
14. Any other factors that are relevant to the proposed system

D. STANDARDS

1. Location

a. A wind energy system may only be located in areas that are zoned Agricultural-Residential (AG-R) and Industrial (I) (Or an overly district as created by the Town).

b. A wind tower may not be located within one-quarter mile (1,320 ft.) of any State Forest, Public Park, or any other area that has been set aside for the sole purpose of preserving a unique wildlife habitat or natural formation recognized by a State, Federal, or local government designation; or within 1,000 feet of a State-identified wetland.

c. A wind tower may not be located within 2,500 feet from Important Bird Areas as identified by New York Audubon.

2. Set Backs

Each wind tower in a wind energy system must be set back (as measured from the center of the base of the tower):

a. From the property line of the parcel on which the wind tower is located by a minimum distance equal to twice the total height of the wind tower, unless waived in writing by the abutting landowner.

b. From any residence or building that is on any parcel by a minimum distance of 1,000 feet, unless waived in writing by the owner of such structure.

c. From any public building that is on any parcel by a minimum distance of 1,000 feet.

d. From the right-of-way of any public road by a minimum distance of 1,000 feet or twice its total height, whichever is greater?

E. SPACING AND DENSITY A wind tower must be separated from any other wind tower by a minimum distance equal to twice the height of the wind tower and by a

sufficient distance so that the wind tower does not interfere with the other wind tower.

F. STRUCTURE A wind tower must be of a monopole construction to the extent practicable. If monopole construction is not practicable, a wind tower must be of freestanding construction to the extent practicable. If monopole or freestanding construction is not practicable, a wind tower may be guyed.

G. HEIGHT The total height of a wind energy system must be 175 feet or less. Other maximum building/structure height restrictions within other sections of this Zoning Law are not applicable. Wind energy systems higher than 175 feet may be allowed through incentive zoning provisions described in Article X of this Law pending Town Board approval.

H. CLEARANCE The vertical distance from ground level to the tip of a wind turbine blade when the blade is at its lowest point must be at least 30 feet.

I. ACCESS AND SAFETY

1. Security

A wind tower, including any climbing aids must be secured against unauthorized access by means of a locked barrier. A security fence may be required.

2. Climbing Aids

Monopole wind towers shall have all climbing aids and any platforms locked and wholly inside the tower.

3. Operational Safety

Wind towers shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, over speeding and excessive pressure on the tower structure, rotor blades and turbine components.

4. Lightning

All wind towers shall provide a continuous electrical path to the ground to protect the tower from lightning.

5. Access Roads

All wind energy systems shall use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.

J. ELECTRICAL WIRES

1. Location

All electrical wires associated with a wind energy system must be located underground and must be located in a manner that does not interfere with reasonably expected farm practices.

2. Transmission Lines.

All wind energy systems shall combine transmission lines and points of connection to local distribution lines.

3. Substations.

All wind energy systems shall connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.

K. LIGHTING

A wind tower and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA), other governmental agency, recognized safety guidelines (i.e. Mercy Flight), or the Planning Board. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed. If more than one lighting alternative is available, the Town reserves the right to choose the leaser obtrusive lighting option available.

L. BUILDINGS AND OUTDOOR STORAGE

Any ancillary buildings and any outside storage associated with a wind energy system must, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment (i.e. in an agricultural settings accessory buildings could be designed to look like barns). Appropriate landscaping or architecture shall be provided to screen accessory structures from road and adjacent residences.

M. AESTHETICS

1. Appearance, Color, and Finish

The exterior surface of any visible components of a wind energy system must be a non-reflective, neutral color. Wind towers that are located within view, or within one mile of each other must be of uniform design, including tower type, color, number of blades, and direction of blades rotation.

2. Visual Impact Assessment

The applicant shall complete a Visual Environmental Assessment Form (Visual EAF- SEQR), as well as a visual impact assessment of any proposed wind energy systems or any proposed modifications to existing wind energy systems. The visual impact assessment shall include:

a. "Before and after photos or computer simulations from key viewpoints both inside and outside of the Town, including state highways and other major roads, from state and local parks, other public lands; from any privately owned preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Planning Board may also request a balloon test.

b. Alternative tower designs.

c. Assessment of visual impact from abutting properties and streets of the tower base, guy wires, accessory buildings and any other element of the wind energy system identified by the Planning Board.

d. Commercial Wind Energy System applications shall provide a view shed map of the proposed wind energy system with a radius of seven (7) miles from any portion of the wind energy system.

e. Commercial Wind Energy System applications shall provide an inventory of all aesthetic resources in the view shed defined item d.

3. Visual Impacts Offset Plan

The applicant may be required to prepare and implement a visual impacts offset plan to mitigate negative impacts on aesthetics of a proposed wind energy system. Such a plan would show how the applicant would protect or make improvements to the aesthetics of another part of the Town to offset the negative impacts on aesthetics within the view shed.

N SIGNS

No wind tower, turbine, building, or other structure associated with a wind energy system may be used to advertise or promote any product or service. A weather resistant sign plate no
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greater than 2 sq. ft. in size containing the current owner or operator, emergency phone number, and current address of such owner/operator shall be located on the exterior surface of the tower or of the fence surrounding each tower and viewable by a Zoning Enforcement Officer. No other work or graphic representation, other than appropriate warning signs, may be placed on a wind turbine, tower, building, or other structure associated with a wind energy system so as to be visible from any public road.

O. AGRICULTURAL MITIGATION

The following shall apply to construction areas for wind energy systems located in County-adopted, State-certified Agricultural Districts. The applicant is required to coordinate with the New York State Department of Agriculture and Markets (Ag. and Markets) to develop an appropriate schedule for milestone inspections to assure that the goals are being met. When required by the Town, the applicant shall hire an Environmental Monitor to oversee the construction and restoration in agricultural fields. The person or company hired as an Environmental Monitor shall be approved by the Town and paid by the applicant.

1. Siting

a. Minimize impacts to normal farming operations by allocating structures along field edges where possible.

b. Locate access roads, which cross agricultural fields, along ridge tops where possible to eliminate the need for cut and fill and reduce the risk of creating drainage problems.

c. Avoiding dividing larger fields into smaller fields, which are more difficult to farm, by locating access roads along the edge of agricultural fields where possible.

d. All existing drainage and erosion control structures such as diversion, ditches, and tile lines shall be avoided or appropriate measures taken to maintain the design and effectiveness of the existing structures. Any structures disturbed during construction shall be required to, as close original condition as possible, as soon as possible, unless such structures are to be eliminated based on a new design.

2. Construction

a. The surface of access roads constructed through agricultural fields shall be level with the adjacent field surface.

b. Where necessary, culverts and water bars shall be installed to maintain natural drainage patterns.

c. All topsoil must be stripped from agricultural areas used for vehicle and equipment traffic and parking. All vehicle and equipment traffic and parking shall be limited to the access road and/or designated work areas such as tower sites and lay-down areas. No

vehicles or equipment will be allowed outside the work area without prior approval from the landowner and, when applicable, the Environmental Monitor.

d. Topsoil from work areas (tower sites, parking areas, "open-cut" electric cable trenches, along access roads) shall be stockpiled separate from other excavated material (rock and/or subsoil). At least 50 feet of temporary workspace is needed along "open-cut" electric cable trenches for proper topsoil segregation. Topsoil stockpile areas shall be clearly designate in the field and on the on-site "work set" of construction drawings. Stockpiles will be located far enough from access roads and work areas to eliminate the possibility of vehicles inadvertently compacting this soil.

e. In cropland, hayland and improved pasture a minimum depth of 48 inches of cover will be required for all buried electric wires. In unimproved grazing areas and land permanently devoted to pasture, a minimum depth of 36 inches of cover will be required. In areas where the depth of soil over bedrock ranges from zero to 48 inches, the electric wires shall be buried entirely below the top of the bedrock or at the depth specified for the particular land use whichever is less. At no time will the depth of cover be less than 24 inches below the soil surface.

f. All excess subsoil and rock shall be removed from the site. On site disposal of such material may be allowed if approved by the landowner and, when applicable, the Environmental Monitor, with appropriate consideration given to any possible agricultural or environmental impacts.*

g. In pasture areas, work areas will be fenced to prevent livestock access, consistent with landowner agreements.

h. All pieces of wire, bolts, and other unused metal objects will be picked up and properly disposed of as soon as practical after the unloading and packing of turbine components so that these objects will not be mixed with any topsoil.*

i. Travel of all heavy equipment (including concrete trucks and erection cranes) will be limited to designated access roads and gravel crane pads at all times.

j. Excess concrete will not be buried or left on the surface in active agricultural areas. Concrete trucks will be washed outside of active agricultural areas.*

*Any permits necessary for disposal under local, state and/or federal laws and regulations must be obtained by the contractor, with the cooperation of the landowner when required.

3. Restoration

a. Restoration scheduling will be consistent with the seasonal limitations identified by Ag. and Markets and will be incorporated into the project's Agricultural

District Notice of Intent (if applicable) as well as the Stormwater Management Plan (General Permit).

b. Following construction, all disturbed agricultural areas will be decompacted to a depth of 18 inches with a deep ripper or heavy-duty chisel plow. In areas where the topsoil was stripped, soil decompaction shall be conducted prior to topsoil replacement. Following decompaction, all rocks four (4) inches and larger in size will be removed from the surface of the subsoil prior to replacement of the topsoil. The topsoil will be replaced to the original depth and the original contours will be reestablished where possible. All rocks four (4) inches and larger shall be removed from the surface of the topsoil. Subsoil decompaction and topsoil replacement should be avoided after October 1st, unless approved on a site-specific basis by the landowner in consultation with Ag. and Markets. All parties involved should be cognizant that areas restore after October 1st may not obtain sufficient growth to prevent erosion over the winter months. If areas are to be restored after October 1st, some provision should be made to restore any eroded areas in the springtime, to establish proper growth.

c. All access roads will be regraded to allow for farm equipment crossing and to restore original surface drainage patterns, or other drainage pattern incorporated into the design.

d. All restored agricultural areas shall be seeded with the seed mix specified by the landowner, in order to maintain consistency with the surrounding areas.

e. All surface or subsurface drainage structures damaged during construction shall be repaired to as close to preconstruction conditions as possible, unless said structures are to be removed as part of the project design.

f. Following restoration, all construction debris will be removed from the site.

4. Two Year Monitoring and Remediation.

a. The applicant will provide a monitoring and remediation period of no less than two (2) years immediately following the completion of initial restoration. The two (2) year period allows for the effects of climatic cycles such as frost action, precipitation and growing seasons to occur, from which various monitoring determinations can be made. The monitoring and remediation phase will be used to identify any remaining agricultural impacts associated with construction that are in need of mitigation and to implement the follow-up restoration. The Applicant will provide to the Town all reports, testing and data necessary to document compliance with subsections (a) through (e) herein.

b. General conditions to be monitored include topsoil thickness, relative content of rock and large stones, trench settling, crop production, drainage and repair of severed fences, etc. Impacts will be identified through on-site monitoring of all agricultural areas

impacted by construction and through contact with respective farmland operators and Ag. and Markets.

c. Topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of topsoil on the affected site. Excessive amount of rock and oversized stone material will be determined by a visual inspection of disturbed areas as compared to portions of the same field located outside the construction area. All excess rocks and large stones will be removed and disposed of by the applicant.

d. When the subsequent crop productivity within affected areas is less than that of the adjacent unaffected agricultural land, the applicant as well as other appropriate parties, will help to determine the appropriate rehabilitation measures to be implemented. Because conditions which require remediation may not be noticeable at, or shortly after, the completion of construction, the signing of a release form prior to the end of the remediation periods will not obviate the applicant's responsibility to fully redress all project impacts.

e. Subsoil compaction shall be tested using an appropriate soil penetrometer or other soil compaction-measuring device. Compaction tests will be made for each soil type identified on the affected agricultural fields. The subsoil compaction test results within the affected area will be compared with those of the adjacent unaffected portion of the farm field/soil unit. Where representative subsoil density of the affected area exceeds the representative subsoil density of the unaffected areas, additional shattering of the soil profile will be performed using the appropriate equipment. Deep shattering will be applied during periods of relative low soil moisture to ensure the desired mitigation and to prevent additional subsoil compaction. Oversized stone/rock material, which is uplifted to the surface as a result of the deep shattering, will be removed.

P. NOISE Audible noise due to the operation of any part of a wind energy system shall not exceed 50 decibels (dBA) for any period of time, when measured at any residence, school, hospital, church, public park, public library or place of public assembly.

Q. INSURANCE Prior to issuance of a building permit, the applicant shall provide the Town proof of a level of insurance to be determined by the Town Board in consultation with the Town's insurer and Attorney, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.

R. SHADOW FLICKER

1. Shadow Flicker Maps. Commercial Wind Energy System applications shall prepare maps showing projected annual hours of shadow flicker impact for all sensitive areas/locations within the project area including, but not limited to, any residence, school, hospital, church or public library.

2. Shadow Flicker Duration Shadow Flicker for all sensitive areas/locations within the project area shall be limited to 30 hours per year and shall not exceed 30 minutes per day.

S. ELECTROMAGNETIC INTERFERENCE (EMI).

Commercial Wind Energy Systems shall be properly sited, filtered and /or shielded in order to avoid any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy system or the applicant shall mitigate any such interference.

T. WATER RESOURCES

Commercial Wind Energy Systems shall be properly sited and constructed in order to avoid any permanent or temporary negative effect upon the area's groundwater and surface water resources, or the applicant shall mitigate any such impacts. Such effects include, but are not limited to, the use of water resources, changes in water quality, alteration of the natural flow system, and the alteration of interactions between the groundwater and surface water.

U. SEVERABILITY

The provisions of this section are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Zoning Law shall not affect the validity or effectiveness of the remainder of the Zoning Law.

SECTION 521

NON-COMMERCIAL WIND ENERGY SYSTEMS

(Local Law #2 of 2012)

A. Permit Requirements

1. Special Use Permit

A Special Use Permit is required for Non-Commercial Wind Energy Systems or a component thereof, except for Non-Commercial Wind Energy Systems located in County-adopted, State-certified Agricultural Districts for primary on-farm use.

2. Zoning Permit

A Zoning Permit and Site Plan Review are required for the installation of a Non-commercial Wind Energy Systems or a component thereof.

3. Expiration

A permit issued pursuant to this Zoning Ordinance/Law expires if:

a. The Non-Commercial Wind Energy System is not installed and functioning within 1 year from the date the permit is issued unless project requires more time, due to grant money issues, proof required. The Special Use Permit can be extended by the Planning Board to coincide with an extension granted by the Zoning Administration for the building permit or

b. The Non-Commercial Wind Energy System is out of service or otherwise unused for a continuous 12-month period.

4. Fees

a. The application for a Special Use Permit Non-Commercial Wind Energy System, except for Non-commercial Wind Energy Systems located in County-adopted, State-certified Agricultural Districts must be accompanied by the fee required for a Special Use Permit.

b. The application for a Zoning Permit for each tower in a Non-Commercial Wind Energy System must be accompanied by the fee required for a zoning permit for an accessory use.

B. Special Use Permit or Zoning Permit Requirements

In addition to those criteria set forth under other Sections of this Zoning Ordinance/Law, the Town Planning Board may consider the following factors when setting conditions upon Special Use Permits or site plans issued for all Non-commercial Wind Energy Systems and may hire a professional engineer or consultant to assist in the review of an application at the applicant's expense:

1. Number of wind towers and their location.
2. Nature of land use on adjacent and nearby properties.
3. Location of other wind energy systems in the surrounding area.
4. Surrounding topography.
5. Proximity to residential structures, residential zoning districts, or areas identified for future residential use.
6. Design characteristics that may reduce or eliminate visual obtrusiveness.
7. Possible adverse effects on migratory birds, and other animals and wildlife.
8. Possible adverse effects of stray voltage, interference with broadcast signals, shadow flicker, and noise.
9. Impact on the orderly development, property values, and aesthetic conditions.
10. Any other factors that are relevant to the proposed system.

C. Standards

1. Location - A Non-commercial Wind Energy System may only be located in areas that are zoned Agricultural (AG), Agricultural-Residential (AG-R), Industrial (I), Commercial (C), and Limited Commercial (LC).

2. Setbacks - Each wind tower in a Non-commercial Wind Energy System must be set back according to Schedule A of the Zoning Law.

3. Safety

a. Operational Safety. Wind towers shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

b. Lightning. All wind towers shall provide a continuous electrical path to the ground to protect the tower from lightning.

c. Lighting. A wind tower and turbine may not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA), other governmental agency, recognized safety guidelines (i.e. Mercy Flight), or the Planning Board. If lighting is required, the lighting must comply with FAA minimum requirements and, whenever possible, be at the lowest intensity allowed. If more than one lighting alternative is available, the Town reserves the right to choose the least obtrusive lighting option available.

4. Signs - No wind tower, turbine, building, or other structure associated with a Non-commercial Wind Energy System may be used to advertise or promote any product or service.

5. Noise - Audible noise due to the operation of any part of a Non-commercial Wind Energy System shall not exceed 60 decibels (dBA) for any period of time, when measured at any lot line adjacent to the wind energy system. The applicant shall provide a certification from the wind

energy manufacture that the audible noise from the unit does not exceed 60 decibels (dBA) at a distance of 100 ft. from the installation site. The Planning Board may allow the decibel level to exceed 60 in extenuating circumstances.

6. Installation Requirements - According to manufacturer's recommendations and New York State Energy Research and Development Authority (NYSERDA) eligible installers under the Small Wind Program.

SECTION 522 INTER-MODAL SHIPPING CONTAINERS AND STORAGE

The purpose of this provision is to provide for Inter-modal Shipping Containers to be used for long term storage in AG, AG-R, R, and MDR.

A. Upon the adoption of this ordinance Inter-modal Shipping Containers, not exceeding forty (40) feet in length and sited according to Schedule A of this ordinance, shall be considered allowed nonconforming uses. Non-conforming containers moved after the adoption of this ordinance shall be required to comply fully with this ordinance.

B. An applicant may apply to the Planning Board for a Special Use Permit for the purpose of using an Inter-modal Shipping Container for long-term storage in the AG, AG-R, R, and MDR districts. Semi-trailers, whole or parts of, are not to be confused with Inter-Modal Shipping Containers for the purposes of this section.

1. An Inter-modal Shipping Container shall not be used for long-term storage on lots of less than forty (40) thousand square feet.
2. For the purposes of this law, containers shall not exceed forty (40) feet in length.
3. Containers shall be located in the rear yard in accordance with Schedule A of this Zoning Law.
4. There shall be a limit of one (1) container on any lot.
5. Screening may be necessary per the discretion of the Planning Board.
6. Other conditions may be imposed, as part of the Special Use Permit process.

ARTICLE VI **MOBILE HOMES AND MOBILE HOME PARKS**

SECTION 601 **MOBILE HOMES**

A. Mobile Home- Permanent Residence (Non-Farm)

1. Criteria

A mobile home may be placed and permanently occupied as a one (1) family residence (non-farm, see Subsection B below) on any lot in an AG, AG-R and MDR Districts provided it complies with Section 306 (Minimum Habitable Floor Area), Section 307 (Minimum Dimensional Criteria), and the following criteria are met and a zoning permit is issued:

a. The mobile home unit shall comply with the NYS Uniform Code Parts 606 and 1221.1 and be constructed in accordance with regulations set forth in the Compilation of Federal Regulation (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards.

b. Placement of the mobile home must comply with the minimum area requirements for a one (1) family dwelling in the respective zoning district, including, but not limited to: lot size and width, yard areas, parking and finished grade.

c. The mobile home shall be installed in compliance with the New York State Uniform Fire Prevention and Building Code (including foundation requirements and skirting), and shall be protected from ground frost heaves.

d. The water supply system and wastewater treatment system shall be approved by the Genesee County Health Department.

B. Mobile Home- Farm Worker Residence

1. Criteria

A mobile home may be placed and permanently occupied as a residence on any lot in an AG or AG-R District for a full-time farm worker even though the provisions of Section 307 (Minimum Dimensional Criteria) are not met provided it complies with Section 306 (Minimum Habitable Floor Area), the following criteria are met and a zoning permit is issued:

a. The farm owner shall annually certify in writing to the Zoning Administration Officer that the resident of the mobile home is a full-time farm worker on the farm on which the mobile home is located.

b. The mobile home unit shall comply with the NYS Uniform Code Parts 606 and 1221.1 and be constructed in accordance with regulations set forth in the Compilation of Federal

Regulation (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards

c. Placement of the mobile home must comply with the minimum yard area requirements (setbacks from property lines) for a one (1) family dwelling in the respective zoning district.

d. No more than one mobile home occupied by a full-time farm worker may be placed on a lot. Such mobile home shall be considered an accessory, or non-primary, use for the purposes of Section 301, Subsection A.

e. The mobile home shall be installed in compliance with the New York State Uniform Fire Prevention and Building Code (i.e., foundation requirements, skirting, etc.), and shall be protected from ground frost heaves.

f. The water supply system and wastewater treatment system shall be approved by the Genesee County Health Department.

C. Mobile Home - Temporary Residence

1. Restrictions

A mobile home may be placed and temporarily occupied as a one (1) family residence on any lot where the appropriate permit(s) (zoning and/or building permit) have been issued for the construction or repair of a residence, for a maximum period of two (2) years under the following circumstances, upon the issuance of either a temporary use permit or emergency housing permit as required.

a. Home Building- If the owner of a vacant lot in either the AG, AG-R or MDR District has been issued an active, valid zoning permit by the Town of Pembroke for the construction of a dwelling on the lot in question (a temporary use permit is required).

b. Fire or Other Disaster - The existing dwelling on the lot has been damaged in such a manner as to make it uninhabitable (an emergency housing permit is required, see Section 703, Subsection C).

2. Criteria

Mobile homes occupied, as temporary residences shall meet the following criteria:

a. The mobile home units shall comply with the NYS Uniform Code Parts 606 and 1221.1 and be constructed in accordance with regulations set forth in the Compilation of Federal Regulation (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards.

b. Placement of the mobile home must comply with the minimum yard area requirements (setbacks from property lines) for a one (1) family dwelling in the respective zoning district.

c. The water supply system and wastewater treatment system shall be approved by the Genesee County Health Department.

D. Mobile Home - Replacement of an Existing Unit

1. An existing mobile home which is occupied as a one (1) family dwelling on any lot in an AG, AG-R, MDR, C or PUD District may be replaced with another mobile home. The proposed replacement unit is not required to comply with Section 306 (Minimum Habitable Floor Area) or Section 307 (Minimum Dimensional Criteria); however, the following criteria must met:

a. The replacement mobile home unit shall be constructed in accordance with regulations set forth in the Compilation of Federal Regulation (CFR), Title 24 Housing and Urban Development, Chapter XX Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280 Manufactured Mobile Home Construction and Safety Standards.

b. The location of the replacement mobile home shall not increase the degree of nonconformity (other than unit size, square footage) relative to the yard area requirements (eg. setbacks from property lines) that existed with the current mobile home.

c. The mobile home shall be installed in compliance with the New York State Uniform Fire Prevention and Building Code (including foundation requirements and skirting), and shall be protected from ground frost heaves.

d. The water supply system and wastewater treatment system for the mobile home shall be approved by the County Health Department.

SECTION 602 MOBILE HOME PARKS

A mobile home park may be located in an Agricultural-Residential District provided the following criteria are met and a special use permit is issued.

A. Standards and Requirements for the Construction of Mobile Home Parks

Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the mobile home park occupants. The site shall not be exposed to objectionable smoke, dust, noise, odors or other adverse influences, and no portion shall be subject to predictable sudden flooding, or erosion, and the site shall not be used for any purpose, which would expose persons or property to hazards.

1. Site Size, Density and Setback Requirements

- a. The minimum size for mobile home parks shall be ten (10) acres.
- b. The number of mobile home spaces shall not exceed five (5) per gross acre.
- c. Each mobile home park shall set aside at least ten (10) percent of the total acreage of the site as open space and recreation area.
- d. A setback of seventy-five (75) feet shall be observed from the right-of-way of any public road bordering the site to any mobile home in the park:
- e. A setback of fifty (50) feet shall be observed from any property line, excluding the right-of-way of any public road.
- f. The site shall be located and laid out so that no mobile home shall be closer than five hundred (500) feet to any existing single family or two family dwelling

2. Lot Size, Density and Setback Requirements

- a. The minimum size for a mobile home lot shall be as follows:
 - (1) For mobile homes having a width of less than twenty-four (24) feet, the minimum lot shall be eight thousand (8,000) square feet, with a minimum width of seventy (70) feet and a minimum depth of one hundred (100) feet.
 - (2) For mobile homes having a width of twenty-four (24) feet or more, the minimum lot shall be at least ten thousand (10,000) square feet, with a minimum width of eighty (80) feet and a minimum depth of one hundred (100) feet.
- b. No mobile home shall be closer than thirty (30) feet to another mobile home or other structure in the park.
- c. Each mobile home located in a mobile home park shall have a front yard, a rear yard and two side yards. No side yard or rear yard space shall be less than fifteen (15) feet and no front yard shall be less than twenty-five (25) feet.
- d. There shall be a minimum setback of twenty-five (25) feet observed from the edge of the abutting park street to any mobile home in the park.

- e. Maximum height for buildings shall be thirty-five (35) feet.

3. Site Layout and Design Requirement

The lay out and design of the Mobile Home Park shall conform to the following requirements:

a. Streets

(1) Mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets and/or roads to each mobile home lot. Each lot in the park shall have direct access to a street.

(2) All mobile home parks containing twenty (20) or more mobile home sites shall have access from two (2) points along a single public street/road, or if bordering on two (2) roads, access can be one for each road, as long as such access points are separated by at least one hundred (100) feet.

(3) Entrances to mobile home parks shall be on a public street/road and shall be designed so as to not interfere with the free movement of traffic on such adjacent public street/road. No parking shall be permitted on an entrance street for a distance of one hundred (100) feet from its intersection with the public street/road.

(4) The street system should provide convenient circulation by means of minor streets and properly located collector streets. Dead-end streets shall be limited in length to five hundred (500) feet and their closed end shall be provided with an adequate turn around sixty-five (65) feet in diameter cul-de-sac.

(5) Each mobile home lot shall have direct access to a street which meets the minimum standards established by the Town Highway Superintendent or Town Engineer.

(6) Grades of all streets shall not be more than eight percent (8%) and shall be sufficient to insure adequate surface drainage.

(7) Street intersections should generally be at right angles and in no case shall any angle or intersection be less than seventy-five (75) degrees.

(8) Park entrances and exits shall be so located to provide a minimum of sight distance on the adjacent public street/road in both directions from the interior road at the point of intersection of not less than three hundred (300) feet.

b. Parking

(1) Two (2) car parking spaces shall be provided for each mobile home.

(2) At least one (1) parking space shall be situate on the mobile home lot. The other parking space may be located in an adjacent parking bay along the street.

(3) Parking may be in tandem.

(4) Each parking space shall have dimensions of at least ten (10) feet by twenty (20) feet and shall have all weather surfacing.

(c) Buffer Strip

(1) A buffer strip shall be established within the mobile home park along all property lines. However, a buffer shall not be constructed so as to impair visibility for park entrances along a public street/road. No above ground structures shall be situated therein.

(d) Recreation Area

(1) Not less than ten (10) percent of the gross mobile home park site area shall be devoted to recreation facilities, generally provided in a location or locations convenient to all park residents.

(2) Recreation areas may include space for community use facilities, such as indoor recreation areas, swimming pools, and hobby shops.

(3) Where compliance with Section 702.A.3.e.(1) results in undue hardship, the Board of Appeals may grant exception there from where it finds that the individual mobile home lots are of sufficient size to provide area for outdoor recreation. In any event, the remaining centralized recreation area for the park cannot be less than one hundred (100) square feet times the number of mobile home lots in the park or five thousand (5,000) square feet, whichever is greater.

(e) Landscaping

Mobile home parks shall be landscaped to provide an attractive setting for mobile homes and other improvements, to provide adequate privacy and pleasant views to minimize reflected glare, and to afford summer shade. Such landscaping shall include the planting and maintenance of at least the following:

(1) Trees and shrubs at suitable intervals along park streets, and within recreation areas.

(2) Special planting to screen objectionable views such as garbage and trash collection stations, nonresidential uses, and any unsightly objects or conditions on adjacent properties.

(3) All areas, which are not paved or occupied by mobile homes or other improvements shall be seeded and maintained as lawn.

4. Lot and Mobile Home Requirements

- a. Each lot shall front on an approved interior street.
- b. Interior lots shall not be permitted to front on more than one (1) street.
- c. No more than one (1) mobile home may be placed on any lot.
- d. No mobile home shall be located within a park except in an authorized

space.

e. All mobile homes shall comply with the current Construction and Safety Standards as set forth by the United States Department of Housing and Urban Development and have a minimum habitable floor area of seven hundred twenty (720) square feet, exclusive of any porches, additions or other extensions; however, such units are not required to comply with Section 307 (Minimum Dimensional Criteria).

f. Mobile homes shall be installed in compliance with the New York State Uniform Fire Prevention and Building Code.

g. No addition shall be made to a mobile home except for a canopy and/or porch open on three (3) sides.

h. One (1) accessory building, not to exceed one hundred (100) square feet in dimension, may be located on each lot.

i. Each lot shall be provided with approved connections for water and sewer in accordance with the regulations of the Genesee County and New York State Department of Health.

j. All utilities shall be underground.

k. No front or side yard shall be used for storage

5. Required Site Improvements

a. Water Supply System- All water supply systems shall be approved by the Genesee County Health Department.

b. Sewerage Disposal and Treatment - All sewerage disposal systems shall be approved by the Genesee County Health Department.

6. Electrical Systems

a. Except as otherwise permitted or required by this standard, all electrical installations in mobile home parks shall be underground and the residential distribution system designed and constructed in accordance with both the local electric utility and National Electrical Codes. The point of the electrical connection for the mobile home shall be within the area of the mobile home stand.

b. The mobile home park secondary electrical distribution system to mobile home lots shall be single phase, 120/240 nominal.

c. For the purpose of this section, where the park service exceeds two hundred forty (240) volts, transformers and secondary distribution panel boards shall be treated as services.

Mobile home lot feeder circuit conductors shall have adequate capacity for the load supplied, and shall be rated at not less than one hundred (100) amperes at 120/240 volts.

d. Provisions may be made for connecting a mobile home power supply assembly by a permanent wiring method, and the mobile home service equipment may provide for installation for at least one (1) fifty (50) ampere receptacle.

Mobile home service equipment may also be provided with a means for connecting a mobile home accessory building or structure or additional electrical equipment located outside a mobile home by a permanent wiring method.

7. Gas Distribution System

Gas equipment and installations within a mobile home park shall be designed and constructed in accordance with the applicable codes adopted by the local utility. Where the state or other political subdivision does not assume jurisdiction, such installations shall be designed and constructed in accordance with the appropriate provisions of the current edition of the American National Standard-National Fuel Gas Code.

8. Fuel Oil Distribution System

Distribution systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

9. Bulk Fuel Storage

a. A mobile home park shall be provided with facilities for the safe and efficient storage of required bulk fuels. Such facilities shall be in accordance with applicable codes and regulations.

10. Lighting

a. Artificial lighting shall be provided to illuminate streets, walks, driveways and parking spaces for the safe movement of pedestrians and vehicles at night.

11. Community Service Buildings

a. Each park shall have one (1) or more buildings for the provision of laundry, sanitary and other community services.

b. Access to such community service buildings shall be directly from a park street and not from or across any mobile home lot.

c. Such community service buildings shall be permanent structures complying with the New York State Sanitary Code and all other applicable ordinances and statutes regulating buildings, electrical installations, and plumbing and sanitation systems.

B. Mobile Home Park Maintenance Standards

1. Refuse Disposal

a. The park owner shall provide for refuse pickup and disposal.

b. The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazard, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

c. No refuse or other organic material shall be placed, stored or dumped in other than refuse containers anywhere in the park. The existence of any refuse or rubbish outside a container for more than twenty-four (24) hours shall be a violation of this Zoning Law.

2. Fire Protection

a. Mobile Home Parks shall be kept free of litter, rubbish and other flammable materials.

b. Fires shall be permitted only in stoves and other receptacles intended for such purposes.

3. Responsibilities of the Park Owner and Management

a. Upon receiving a special use permit, the park owner shall establish and operate the park in compliance with the provisions of this Zoning Law and all other applicable ordinances, statutes and regulations, and shall provide adequate services so as to maintain the park, its facilities and equipment in a safe, clean and sanitary condition.

b. The park management shall also supervise both the placement of each mobile home on the lot and the installation of all utility connections.

c. The owner of a mobile home park shall develop a regular program of park maintenance which shall attend to such items as lawn maintenance, maintenance of buffer strips and open drainage ditches, parking area repairs, cleaning and maintenance of community service buildings, and whatever regular maintenance operations are required by the water supply system, sewage disposal system, and other services provided by the park. The proposed maintenance program shall be presented to the Town Planning Board at the time the special use permit is applied for under Section 808 of this Zoning Law and, once approved, a copy thereof filed with the Town Clerk and Zoning Enforcement Officer. A copy shall also be furnished to all residents of the park and posted in a conspicuous place in the park.

4. Responsibilities of Park Occupants

a. Park occupants shall comply with the provisions of this Zoning Law and other applicable ordinances, statutes and regulations and shall maintain their mobile home lot and improvements in good repair and in a clean and sanitary condition.

5. Temporary Living Units

No occupied recreational vehicle shall be permitted in a mobile home park except in compliance with Section 510. Unoccupied recreational vehicles shall be stored in areas designated for the storage of such units.

C. Mobile Home Park Special Use Permits

1. Annual Inspection

Pursuant to Section 708.D, the Zoning Enforcement Officer shall inspect at least annually the operation of a mobile home park to make sure it complies with the provisions of this Zoning Law and any and all conditions prescribed by the Planning Board when issuing the special use permit.

2. Compliance With Regulations

Before receiving a special use permit for a mobile home park, the owner thereof shall make an adequate showing that the subject property and proposed use comply with the provisions of this Article.

D. Non-conforming Mobile Home Park

A non-conforming Mobile Home Park may not be expanded as to the number of existing units. An existing unit may be replaced for a new unit, provided it is installed in accordance with Section 601 D. If a lot is empty in a non-conforming Mobile Home Park it may be filled in accordance with Section 610 D.

ARTICLE VII

ADMINISTRATION AND ENFORCEMENT

SECTION 701

DUTIES OF THE ZONING ENFORCEMENT OFFICER

The responsibility of enforcing the provisions of this Zoning Law and conditions placed upon Special Use Permits are hereby conferred upon the Zoning Enforcement Officer and his/her duly authorized assistants, who shall have the powers conferred upon them by this Zoning Law, those as may be reasonably implied there from and those powers conferred upon them by other applicable laws. The Zoning Enforcement Officer and duly authorized assistants shall be appointed by the Town Board and receive such compensation as determined by the Town Board. All references to duties and authority of the Zoning Enforcement Officer shall be deemed to also include any duly authorized assistants.

A. Violations and Written Orders

When the Zoning Enforcement Officer is advised by the Zoning Administration Officer that buildings or premises under construction are in violation of the provisions of this Zoning Law, or determines that any existing buildings or premises are in violation of the provisions of this Zoning Law, or any conditions attached, he/she shall issue a written notice of violation to the owner and/or other responsible party directing that said violation be remedied. Said written notice shall specify the nature of the violation found to exist, the remedy ordered, the time permitted for such remedial action, the penalties and remedies which may be invoked by the Town and the violator's rights of appeal.

B. Records

The Zoning Enforcement Officer shall maintain a permanent record of all matters considered and all actions taken by him/her. Such records shall form a part of the records of his/her office and shall be available for the use of the Town Board and other officials in the Town.

C. Monthly Report

The Zoning Enforcement Officer shall submit a monthly written report to the Town Board. Said report shall cite all actions taken by the Zoning Enforcement Officer including all complaints of violations received, all violations found by him/her, and any actions taken by him/her in connection with each such violation during the previous month. A copy of this monthly report shall also be provided to the Planning Board Chairperson and the Zoning Board of Appeals Chairperson. Any and all costs incurred by the Town, in its sole discretion, for review of Zoning and/or Permit Applications shall be borne by the Applicant, including but not limited to, Engineering, Legal, and other consultant fees. The Applicant shall be billed in a timely manner and shall reimburse the Town within 30 days of receipt of said bill.

SECTION 702

DUTIES OF THE ZONING ADMINISTRATION OFFICER

A. Applications and Permits

It shall be the duty of the Zoning Administration Officer, or his/her duly authorized assistants, to process applications and issue the permits required by this Zoning Law.

B. Inspection and Review

Except as otherwise specifically provided by law or regulation, or except as herein otherwise provided, the Zoning Administration Officer shall administer all of the provisions of laws and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures, and the installation and use of materials therein and the location, use and occupancy thereof. He/she shall have the right to enter any building or premises with the consent of the owner, or by a court order, during reasonable hours in the course of his/her duties.

C. Revocation of Certificate of Compliance

On service of the above described written notice of violation issued by the Zoning Enforcement Officer, 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.

D. Records

The Zoning Administration Officer shall maintain a permanent record of all matters considered and all action taken by him/her during the previous month. Such records shall form a part of the records of his/her office and shall be available for the use of the Town Board and other officials of the Town. The records to be maintained shall include at least the following:

1. Application File

A separate, permanent file shall be established for each application for a permit required by this Zoning Law at the time said application is filed. Such file shall contain one (1) signed copy of the application and all supporting documents and plans, notations regarding pertinent dates and fees, etc., one (1) copy of any resolution and/or decision of the Planning Board and/or Board of Appeals adopted in connection with the application, and the date the permit applied for was issued or denied by the Zoning Administration Officer, together with a copy of such permit or denial.

2. Monthly Report

The Zoning Administration Officer shall submit a monthly written report for the Town Board. Said report shall cite all permits and certificates issued and denied. A copy of this monthly report shall also be provided by the Zoning Administration Officer to the Tax Assessor, Planning Board Chairperson and Zoning Board of Appeals Chairperson.

SECTION 703

CERTIFICATES AND PERMITS

The following certificates and permits are hereby established for the equitable enforcement and administration of the provisions of this Zoning Law.

A. Zoning Permit

The Zoning Administration Officer is hereby empowered to issue a zoning permit for any plans involving the construction or alteration of a building or structure or part of any building or structure including signs, or the change in use of any land, building or structure or part thereof, where he/she determines that such plans comply with the provisions of this Zoning Law. A zoning permit is not a building permit. An applicant may need both permits.

B. Temporary Use Permit

Upon written direction of the Planning Board, the Zoning Administration Officer is hereby empowered to issue a temporary use permit pursuant to Sections 51O.A.1.c and 708.B.4. Except as otherwise provided in Section 51O.A.1.c. and 601.C.1, a temporary use permit may only be effective for a consecutive period not exceeding twelve (12) months, and such permit may be extended by the Planning Board for an additional consecutive period not exceeding six (6) months.

C. Emergency Housing Permit

The Zoning Administration Officer is hereby empowered to issue a nonrenewable emergency-housing permit when a dwelling unit is rendered uninhabitable (e.g. fire, flooding, etc.), for a period not exceeding two years in conformance with Section 601.C.1.b.

D. Special Use Permit

The Zoning Administration Officer is hereby empowered to issue a special use permit when granted by the Planning Board as provided for in Section 708.

SECTION 704

APPLICATION PROCEDURES

A. Application

Applications for zoning permits shall be accompanied by a layout sketch, drawn to scale, showing the shape and dimensions of the lot to be affected, the size and location of all buildings or structures to be constructed, altered or extended as well as unaffected structures that shall remain, the intended use of each building or structure, the exact location of all utility and other easements and rights-of-way and any other information with regard to the lot affected and neighboring lots as may be necessary for compliance with requirements of this Zoning Law. The applicant is solely

responsible for the accuracy of all information, data and site plans submitted pursuant to this Zoning Law. Four (4) copies of the application, together with the layout sketch, shall be submitted. The Zoning Administration Officer shall carefully consider the application, layout sketch and any supporting documents for compliance with this Zoning Law and either issue or deny the zoning permit in a timely manner.

B. Issuance of Zoning Permit

The Zoning Administration Officer shall issue a zoning permit only after the site plan, if required, has been approved by the Planning Board and any required variances and/or special use permit have been obtained.

C. Installation of Foundation

The Zoning Administration Officer shall be notified when the site is prepared for installation of the foundation for any building or structure, and shall inspect the site to check the proposed location thereof.

D. Completion of Construction

A zoning permit shall expire if construction is not substantially completed within a period of one (1) year from the date of said permit. The Zoning Administration Officer may issue a six (6) month extension for good cause shown. Only two (2) such extensions shall be permitted.

E. Location of Permit

The zoning permit shall be located in a place readily visible to the public during the construction process.

SECTION 705 **FEES FOR PERMITS, AMENDMENTS, VARIANCES, SPECIAL USE PERMITS, SITE PLAN REVIEW AND PLANNED UNIT DEVELOPMENTS**

Fees may be charged for the processing of applications for the various permits, amendments, and variances required and/or permitted by the provisions of this Zoning Law together with site plan review and Planned Unit Developments. The fees shall be set by separate resolution of the Town Board and may be changed from time to time in the same manner. Any and all costs incurred by the Town, in its sole discretion, for review of Zoning and/or Permit Applications shall be borne by the Applicant, including but not limited to, Engineering, Legal, and other consultant fees. The Applicant shall be billed in a timely manner and shall reimburse the Town within 30 days of receipt of said bill.

SECTION 706 **CERTIFICATES OF COMPLIANCE**

No land shall be used, occupied or changed in use and no building hereafter erected, altered, or extended shall be used or changed in use until a Certificate of Compliance has been issued by the Zoning Administration Officer in accordance with the provisions of this Zoning Law.

SECTION 707 ZONING BOARD OF APPEALS

A. Organization

The Town Board shall appoint members to the Zoning Board of Appeals as authorized by the provisions of Section 267 of the Town Law. The Town Board shall also designate the Chairperson thereof. In the absence of a chairperson the Board of Appeals may designate a member to serve as Acting Chairperson. The present Board of Appeals consists of seven (7) members, any future changes by the Town Board to the number of members shall comply with the provisions of NYS Town Law Section 267 and/or any other applicable laws.

B. Meetings, Minutes and Records

Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Zoning 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, decisions and other official actions.

C. Filing Requirements

Every rule, regulation, amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record.

D. Hearing Appeals

The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision, interpretation or determination made by the Zoning Enforcement Officer. The concurring vote of a majority of the entire Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Enforcement Officer, or to grant a use or area variance. In those instances where due to the location of the affected property, a variance request is subject to review under General Municipal Law Section 239m, a majority plus one vote of the entire ZBA is necessary to override a County Planning Board recommendation of disapproval or approval with modification. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the Town.

E. Time of Appeal

Such appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the Zoning Enforcement Officer by filing with said official and with the Town Clerk a notice of appeal specifying the grounds thereof and the relief sought. Such notice of appeal shall be filed on forms available from the Zoning Enforcement Officer or Town Clerk. The cost of sending or publishing any notice relating to such appeal shall be borne by the appealing party and shall be paid to the Town Clerk prior to the hearing of such appeal.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer, from whom the appeal is taken, certifies to the Board of Appeals, after notice of appeal shall have been filed with the Zoning Enforcement Officer, that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise then 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 Zoning Enforcement Officer from whom the appeal is taken and undue cause shown.

F. Public Hearing Notice and Referrals

A public hearing shall be held by the Zoning Board of Appeals before deciding an appeal. Such public hearing shall be advertised by publication in a paper of general circulation within the Town of a notice of such hearing at least five (5) days prior to the date thereof. When required by the provisions of Section 239 of the General Municipal Law, the Zoning Board of Appeals shall forward the application to the County Planning Board for its review.

At least thirty (30) days before the date of the public hearing unless such time limit is waived by the Planning Board, the secretary of the Zoning Board of Appeals shall transmit to the Planning Board a copy of the notice of hearing and all pertinent information for those appeals involving a use variance. The Planning Board shall inform the Zoning Board of Appeals in writing of its advisory opinion (including recommendations) prior to the hearing. Failure of the Planning Board to inform the Zoning Board of Appeals within the allotted time shall be deemed to signify no recommendation on the application.

The Zoning Board of Appeals shall send, by regular mail, a copy of the notice of hearing to all owners of property situated within two hundred and fifty (250) feet of the property which is the subject of the application when the property involved is located in an MDR or Residential District, or five hundred (500) feet when the involved property is located in any other district, at least ten (10) days before the date of the hearing.

G. Time of Decision

The Zoning Board of Appeals shall decide upon an appeal within sixty-two (62) days after the conduct of the public hearing. Prior to rendering its decision the Board shall first complete the SEQOR process. Said time of decision may be extended by mutual consent of the applicant and Zoning Board of Appeals. All decisions shall be in writing stating the decision, the facts found and the reasons for the decision.

H. Filing of Decision and Notice

The decision of the Zoning Board of Appeals on an appeal shall be filed in the office of the Town Clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant by regular mail.

I. Permitted Action by the Zoning Board of Appeals

1. Interpretations, Requirements, Decisions and Determinations

The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determinations as in its opinion ought to have been made.

2. Use Variances

The Zoning Board of Appeals, on appeal from the decision or determination of the Zoning Administration Officer, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by this Zoning Law.

No such use variance shall be granted by the Zoning 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 Zoning Board of Appeals that for each and every use allowed under the zoning regulations 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. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- c. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- d. That the alleged hardship has not been self-created.

The Zoning 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.

3. Area Variances

The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Zoning Administration Officer, to grant area variances from the area or dimensional requirements of this Zoning Law.

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 Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning 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. Imposition of Conditions

The Zoning 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 Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

J. Solar Access

Pursuant to Chapter 742 of the Laws of 1979, the siting of houses to take best advantage of solar energy and/or the construction of residential solar equipment shall be considered in the application of the provisions of this Chapter. Upon appeal pursuant to this Section of this Zoning Law the Zoning Board of Appeals shall consider the specific conditions of the case and may make provisions for, so far as conditions permit, the accommodation of solar energy systems and equipment and access to sunlight necessary thereof when hearing a request for an area variance.

K. Rehearing

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the board not previously reviewed may be made by any members of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote

of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

SECTION 708 **PLANNING BOARD**

A. Organization

The Planning Board shall consist of seven (7) members appointed by the Town Board as provided for in Section 271 of the Town Law. The Town Board shall designate a member of said Planning Board to act as chairperson thereof, and upon its failure to do so, the Planning Board shall elect a chairperson from its own members. The Planning Board shall elect such other officers as necessary to conduct its business.

B. Powers and Duties

1. Site Plan Review

Review of site plans in accordance with NYS Town Law Section 274-a as set forth in Subsection C of this Section, for any application for a zoning permit other than those for single family dwellings and their accessory uses and/or buildings unless otherwise required by this Zoning Law (i.e. special use permit).

2. Special Use Permits

Granting of special use permits in accordance with NYS Town Law Section 274-b as set forth in this Zoning Law based upon the criteria set forth in Subdivision D.8 of this Section.

3. Review Use Variances

Review use variance applications referred to the Planning Board in accordance with Section 707.F and make a recommendation to the Zoning Board of Appeals.

4. Temporary Uses and Structures

Grant permits for temporary uses and structures only as follows.

a. Except as otherwise provided in Sections 510.A.1.c and 601.C.1, the Planning Board may direct the Zoning Administration Officer to issue a temporary use permit for a period of time not exceeding twelve (12) months, for incidental nonconforming uses and structures as follows:

- (1) Temporary uses incidental to a construction project.
- (2) Temporary real estate sales office incidental to a subdivision.
- (3) Other similar temporary incidental uses which:

(a) Do not have a detrimental effect upon the lawful use of land and activities normally permitted in the district in question, and

(b) Contribute materially to the welfare and well-being of the Town.

b. Temporary use permits shall be conditioned upon an agreement by the applicant to remove the use upon expiration of the permit.

c. Temporary use permits may be reissued only once for an additional consecutive period not exceeding six (6) months.

C. Site Plan Review

The Planning Board, at a regular or special meeting, shall review and approve, approve with modifications, or disapprove a site plan in connection with any application for a zoning permit other than those for single family dwellings and their accessory uses and/or buildings.

1. Notice and Public Hearing

The Planning Board may, in its sole discretion, hold a public hearing as part of the site plan review process. When a public hearing is held as part of the site plan review, the public hearing shall be held at a time fixed within sixty-two (62) days from the date of the application for site plan review is received by it and public notice thereof shall be published in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. The Planning Board shall mail a notice of the hearing to the applicant at least ten (10) days before such hearing and also send, by regular mail, a copy of the notice of hearing to all owners of property situated within two hundred and fifty (250) feet of the property which is the subject of the application when the property involved is located in an MDR or Residential District, or five hundred (500) feet when the involved property is located in any other district, at least ten (10) days before the date of the hearing. When necessary under Section 239 of the General Municipal Law, the Planning Board shall forward the site plan to the Genesee County Planning Board for its review prior to taking any final action.

2. Submission of Site Plan and Data

The applicant shall submit to the Town Clerk ten (10) copies of a site plan and supporting data in a form satisfactory to the Planning Board, including, but not limited to, the following information presented in graphic form and accompanied by a written text.

- a. Survey of property showing existing features, including contours, utility easements, large trees, buildings, structures, streets, rights-of-way, zoning and ownership of surrounding property.
- b. Layout sketch showing proposed lots, blocks, building locations and land use area.
- c. Traffic circulation, parking and loading spaces, and pedestrian walks.
- d. Landscaping plans including site grading, landscape design, open space and buffer zone.
- e. Preliminary architectural drawings for buildings to be constructed, floor plans, exterior elevations and sections.
- f. Preliminary engineering plans, street improvements, storm drainage, water supply, sanitary sewer facilities and fire protection
- g. Engineering feasibility study of any anticipated problem, which may arise from the proposed development, as required by the Planning Board.
- h. Construction sequence and time schedule for completion of each phase for buildings, parking and landscaped areas.
- i. Description of proposed uses, anticipated hours of operation, expected number of employees, and anticipated volume of traffic generated.
- j. Together with any other information requested by the Planning Board.

3. Site Plan Review Criteria

The town Planning Board shall review the site plan and supporting data before approval, approval with modifications, or disapproval of such site plan, taking into consideration the following:

- a. Harmonious relationship between proposed uses and existing uses.
- b. Maximum safety of vehicular circulation between site and street, including emergency vehicle access.
- c. Adequacy of interior circulation, parking and loading facilities with particular attention to pedestrian safety and emergency vehicle access.
- d. Adequacy of landscaping and setbacks to achieve compatibility with, and protection of, adjacent residential uses.

e. Adequacy of municipal facilities to serve the proposal including streets, water supply and wastewater treatment systems, storm water control systems, and fire protection.

4. Area Variances

Notwithstanding any provisions of law to the contrary, where a proposed site plan contains one (1) or more features which do not comply with the zoning regulations, applications may be made to the Zoning Board of Appeals for an area variance pursuant to NYS Town Law Section 274-a, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

5. Modifications and Conditions

The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to insure safety, to minimize traffic difficulties and to safeguard adjacent properties. Should changes or additional facilities be required by the Planning Board, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town.

6. Waiver of Requirements

The Planning Board is empowered, when reasonable, to waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in this Zoning Law, and may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

7. Reservation of Park Land on Site Plans Containing Residential Units

a. Before the Planning Board may approve a site plan containing residential units, such site plan shall also show, when required by the Planning Board or Zoning Law, a park or parks suitably located for playground or other recreational purposes.

b. Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular site plan will contribute.

c. In the event the Planning Board makes a finding pursuant to paragraph (b) of this subdivision that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Planning Board may require a sum of money in lieu thereof to be established by the Town Board. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the site plan, which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.

d. Notwithstanding the foregoing provisions of this subdivision, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to NYS Town Law Section 276, the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of re-subdivision of such plat, nothing shall preclude the additional reservation of park land or money donated in lieu thereof.

8. Performance Bond or Letter of Credit as a Condition of Site Plan Approval

The Planning Board may require as a condition of site plan approval that the applicant file a performance bond or Letter of Credit in such amount as the Planning Board determines to be in the public interest, to insure that proposed development will be built in compliance with accepted plans. Any such bond must be in a form acceptable to the Town Attorney for an amount approved by the Town Board.

9. Performance Standards

In all districts, uses are not permitted which violate applicable county, state and/or federal codes and regulations pertaining to environmental issues. The Planning Board, under its powers of site plan review and approval, may in its discretion reject any uses if it determines that insufficient evidence has been submitted to show compliance with these environmental standards. However, final responsibility for compliance with all environmental laws and regulations lies with the applicant.

10. Decisions

The Planning Board shall decide any matter referred to it under this Subsection within sixty-two (62) days after the first regular monthly meeting of the Planning Board at least ten (10) days prior to which the site plan and all supporting data required by this Article are submitted to the Town Clerk. Such time may be extended by mutual consent of the Planning Board and the applicant. Prior to rendering its decision the Board shall first complete the SEQQR process. In those instances where due to the location of the affected property, a site plan review is subject to

review under General Municipal Law Section 239m, a majority plus one vote of the entire Planning Board is necessary to override a County Planning Board recommendation of disapproval or approval with modification. All decisions shall be in writing stating the decision, the facts found and the reasons for the decision. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy mailed to the applicant by regular mail.

11. Changes and Revisions

Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

D. Special Use Permit

The Planning Board, at a regular or special meeting, shall review and approve, approve with modification, or disapprove an application for a special use permit. Uses requiring a special use permit are those, which are compatible with the general spirit of the Zoning Law if certain standards and conditions are met. Each such use is listed in this Zoning Law as a use permitted within a zoning district upon the issuance of a special use permit. All provisions of this Zoning Law shall be followed and the Planning Board must find that the proposed implementation of such use is not inconsistent with the public welfare. A special use permit may be subject to conditions and safeguards imposed by the Planning Board as set forth in Paragraph 4 of this Subsection.

1. Application

Applications for special use permits shall be made in writing on the appropriate form obtained from the Zoning Administration Officer. Four (4) copies of each application, including site plan, shall be submitted to the Zoning Administration Officer, who shall review the application for completeness prior to forwarding it to the Town Clerk and the Planning Board. One (1) copy shall be retained by the Zoning Administration Officer. Such site plan shall show location of all buildings, parking, access and circulation, open space, landscaping and other information necessary to determine that the proposed special use complies with the intent of this Zoning Law.

2. Area Variance

Where a proposed special use permit contains one (1) or more features which do not comply with the Zoning Law, application may be made to the Zoning Board of Appeals for an area variance pursuant to Section 274-b of Town Law, without the necessity of a decision or determination of the Zoning Administration Officer.

3. Notice and Public Hearing

The Planning Board shall hold a public hearing as part of the site plan review process. The public hearing shall be held at a time fixed within sixty-two (62) days from the date of the application for a special use permit is received by it and public notice thereof shall be published in a newspaper of general circulation in the Town at least five (5) days prior to the date of the hearing. The Planning Board shall mail a notice of the hearing to the applicant at least ten (10) days before such hearing and also send, by regular mail, a copy of the notice of hearing to all owners of property situated within two hundred and fifty (250) feet of the property which is the subject of the application when the property involved is located in an MDR *or* Residential District, or five hundred (500) feet when the involved property is located in any other district, at least ten (10) days before the date of the hearing. When necessary under Section 239 of the General Municipal Law, the Planning Board shall forward the site plan to the Genesee County Planning Board for its review prior to taking any final action.

4. Conditions

The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said special use permit, any such conditions must be met in connection with the issuance of the special use permit by the Zoning Administration Officer.

5. Waiver of Requirements

The Planning Board is empowered, when reasonable, to waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in this Zoning Law, and may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit.

6. Decisions

The Planning Board shall decide any matter referred to it under this Subsection within sixty-two (62) days after the public hearing. Such time may be extended by mutual consent of the Planning Board and the applicant. Prior to rendering its decision the Board shall first complete the SEQR process. In those instances where due to the location of the affected property, a special use permit request is subject to review under General Municipal Law Section 239m, a majority plus one vote of the entire Planning Board is necessary to override a County Planning Board recommendation of disapproval or approval with modification.

All decisions shall be in writing stating the decision, the facts found and the reasons for the decision. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days after such decision is rendered, and a copy mailed to the applicant by regular mail.

7. Abandonment of Special Use Permit

A special use permit shall expire when there occurs a cessation of such use or activity, for which said special use was originally issued, for a period of one (1) year. Upon evidence that a special use permit has been abandoned the Zoning Administration Officer shall issue a notice of abandonment to the owner of record for the property by registered mail. If after sixty (60) days the owner has not provided satisfactory proof that the special use did not cease, the Planning Board shall revoke the special use permit.

8. Standards Applicable for all Special Use Permits

The Planning Board may issue a special use permit only after it has found that all the following standards and conditions have been satisfied, in addition to any other applicable standards and conditions contained elsewhere in this Zoning Law.

a. The location and size of such use and intensity of the operations involved in or conducted therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous and shall be in harmony with the orderly development of the district.

b. The location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings, nor impair their value.

c. The proposed use shall not cause undue noise, vibration, odor, lighting glare, and unsightliness so as to detrimentally impact on adjacent properties.

d. When a commercial or industrial special use abuts a residential property the Planning Board may find it necessary to require screening of sufficient height and density (i.e. fences, hedges, etc.) to reduce or eliminate the conflicting environmental conditions previously mentioned.

e. Electrical disturbances shall not be caused so as to disrupt radio or television communications in the immediate area.

f. The proposed use shall meet the off-street parking and loading requirements of similar uses.

g. Appropriate on-lot drainage shall be provided so as to eliminate any potential on-site water related problems. Also, the drainage systems created shall not detrimentally impact on adjacent properties.

h. Traffic access to and from the use site, as well as on-lot traffic circulation, shall be designed so as to reduce traffic hazards.

i. Such use shall be attractively landscaped. This shall involve grading, seeding, and regular mowing of the front yard area at a minimum

j. A special use permit shall not be issued for a use on a lot where there is an existing violation of this Zoning Law unless the Planning Board determines in its sole discretion the special use permit resolves the existing violation.

k. As a condition of all special use permits, right of entry for inspection with reasonable notice shall be provided to determine compliance with the conditions of said permit.

l. In addition to the general standards for special permits as set forth herein, the Planning Board may, as a condition of approval for any such use, establish any other additional standards, conditions, and requirements, it deems necessary or appropriate to promote the public health, safety and welfare, and to otherwise implement the intent of this Zoning Law.

m. The above standards are not intended to apply to uses whose regulation has been preempted by the State or Federal government, i.e., mining.

SECTION 709 **VIOLATION AND PENALTY**

A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy, or change the use of, any building, structure, or land or part thereof in a manner not permitted by this Zoning Law or without the issuance of a valid zoning permit or certificate of compliance as required by this Law.

B. It shall be further unlawful for any person to fail to comply with a written order of the Zoning Enforcement Officer within the time fixed for compliance therewith.

C. Appearance Ticket - The Zoning Enforcement Officer may issue an appearance ticket to any person who fails to respond to a notice of violation and written order to correct the violation.

D. It shall be unlawful for any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or for any person taking part or assisting in the construction, alteration, repair or use of any building, structure or land, to violate any of the applicable provisions of this Zoning Law, or any lawful order, notice, directive, permit or certificates issued or made hereunder.

E. Any violation of this Section and/or this Zoning Law shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of NYS Town Law. Each and every week such violation continues shall be deemed a separate and distinct violation.

F. The Zoning Enforcement Officer may, with permission of the Town Board, engage the Town Attorney or any other attorney approved by the Town Board to initiate legal action to enforce provisions of this Zoning Law.

G. In addition to the foregoing remedies, the Town of Pembroke and/or its appropriate officials and authorities may maintain an action for injunction to restrain, correct or abate

any violation of this Zoning Law and/or maintain an action at law for damages sustained as a result of any violation of this Zoning Law and/or seek any other remedy permitted by law including Town Law Section 268. Damages shall include, but not be limited to, the legal fees and court costs expended or incurred by the Town as a result of any legal proceedings brought hereunder.

SECTION 710 **COMPLAINT OF VIOLATION**

Whenever a violation of this Zoning Law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, signed, and shall be filed with the Zoning Enforcement Officer who shall properly record such complaint, investigate it and take appropriate action in a timely manner.

SECTION 711 **STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)**

A. The State Environmental Quality Review Act (SEQR) requires that local government examine the environmental impact of all actions they permit, fund, or construct. Article 8 and Part 617 of Title 6 of the New York Code of Rules and Regulations (8 NYCRR Part 617) sets forth the SEQR regulations in detail and should be reviewed for compliance prior to undertaking any of the above mentioned activities.

B. As set forth in 8 NYCRR Part 617, determination of lead agency status is one of the initial steps in the SEQR process. When the Town is designated lead agency for a particular zoning action, the following boards (agencies) may typically be the lead agency for the actions identified as follows.

Zoning Text Amendment	Town Board
Zoning District Amendment	Town Board
Special Use Permits	Planning Board
Zoning Permit (if necessary)	Planning Board
Site Plan Review	Planning Board
Variances	Zoning Board of Appeals

When a project involves two (2) or more separate zoning actions, the board (agency) having final (last) approval would typically be the lead agency. Nothing in this Section shall be interpreted to override the process for designation of lead agency status as set forth in 8 NYCRR Part 617.

C. The SEQR process may extend the various procedural time limits set forth throughout this Zoning Law. For those actions taken under this Zoning Law subject to SEQR all time frames and deadlines otherwise set forth in this Zoning Law may be delayed until a Determination of Significance has been made and, if required, a Draft Environmental Impact Statement has been filed. An application is not complete, and, therefore, the review clock does not start, until a Determination of No Significance (Negative Declaration) has been made or until a Draft Environmental Impact Statement has been filed.

ARTICLE VIII **AMENDMENTS**

SECTION 801 **INITIATING AMENDMENTS**

A. **Initiating Amendments**

The Town Board may, from time to time, on its own motion, on petition, or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this Zoning Law.

B. **Petitions**

Each petition requesting a change of zoning regulations or district boundaries shall be typewritten, signed by the owner, filed in triplicate with the Town Clerk, and shall be accompanied by the required fee.

C. **State Environmental Quality Review (SEQR)**

Amendments of the Zoning Law may be subject to the State Environmental Quality Review process (SEQR). The Town Board should identify the type of action said zone change constitutes under SEQR regulations. Depending on the size of the zone change and several other factors it may be a TYPE I or an UNLISTED action. To make a decision, the Town Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York).

If it is determined that an environmental impact statement needs to be prepared for the proposal in question, all time frames and deadlines otherwise set forth in this Zoning Law shall be delayed until a draft environmental impact statement has been filed. An application is not complete, and, therefore, the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement is completed.

SECTION 802 **REFERRAL OF PROPOSED AMENDMENTS TO THE TOWN
PLANNING BOARD AND COUNTY PLANNING BOARD**

A. **Referral to Town Planning Board**

All proposed amendments other than those requested by the Planning Board shall be referred to the Planning Board for its recommendation thereon. The Planning Board shall submit its report prior to the public hearing. Failure of the Planning Board to report within the required time shall be deemed to be approval of the proposed amendment.

B. Referral to County Planning Board

Where required by Section 239 (m) of the Town Law or other applicable statute a proposed amendment shall be referred to the Genesee County Planning Board, which Board shall report its recommendations to the Town Board within thirty (30) days from the date of such referral. Failure of the Genesee County Planning Board to report within said period shall be deemed an approval of the proposed amendment by the said Board. In the event that the Genesee County Planning Board disapproves the amendment or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members of the Town Board and after the adoption of a resolution fully setting forth the reasons for such contrary action.

SECTION 803 **HEARING ON PROPOSED AMENDMENT**

Before adopting any amendments to this Zoning Law the Town Board shall give notice of a public hearing thereon to such persons and in such manner as required by Section 264 of Town Law, or other applicable law and shall hold a hearing thereon pursuant to such notice.

SECTION 804 **PETITION PROTESTING AMENDMENT**

In case of a protest against such change signed by the owners of twenty (20) per cent or more, either of the land included in such proposed change, or of the land immediately adjacent thereto and extending one hundred (100) feet there from or of the land directly opposite thereto, and extending one hundred (100) feet, from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least three-fourths of the members of the Town Board.

SECTION 805 **PERIODIC REVIEW BY PLANNING BOARD**

From time to time, at intervals of not more than three (3) years, the Planning Board shall reexamine the provisions of this Zoning Law and the location of district boundary lines, and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

ARTICLE IX **LEGAL STATUS PROVISIONS**

SECTION 901 **PROVISIONS ARE MINIMUM REQUIREMENTS**

In their interpretation and application, the provisions of this Zoning Law shall be considered as the minimum requirements to promote and protect public health, safety, comfort, convenience, prosperity, and other aspects of the general welfare, and in particular:

- A. To promote the purposes set forth in the preamble to this Zoning Law and in the statements of legislative intent for the respective districts or groups of districts.
- B. To provide a gradual remedy for existing conditions which are detrimental thereto.

SECTION 902 **CONFLICT WITH OTHER LAWS**

Whenever any provision of this Zoning Law, or any other law, ordinance, or resolution of any kind, impose overlapping or contradictory regulations over the use of the same land, or over the use, location or size of certain buildings or other structures, or contain other restrictions covering the same subject matter, the provisions which are more restrictive or impose higher standards or requirements shall govern.

SECTION 903 **EXISTING ZONING PERMITS**

In all cases where:

- A. A zoning permit has previously been lawfully issued for the proposed construction of a new building or other structure, or for an enlargement or alteration of an existing building or other structure which requires the construction or extension of a foundation, and
- B. The adoption of this Zoning Law or any amendment thereto, would make such new, extended or altered building or structure nonconforming, such construction may nevertheless continue in accordance with said zoning permit and a certificate of compliance may be issued for such nonconforming building or structure.

SECTION 904 **NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

No provision of this Zoning Law shall be construed to repeal, modify or constitute an alternative to the New York State Uniform Fire Prevention and Building Code (referred to as the Uniform Code). Town residents and other persons using this Zoning Law should make sure they refer to the Uniform Code and the Town of Pembroke Code Enforcement Officer to determine its applicability to their specific project.

SECTION 905 **EXISTING PRIVATE AGREEMENTS**

This Zoning Law is not intended to abrogate or annul any easement, covenant, or any other private agreement.

SECTION 906 **SEPARABILITY CLAUSE**

It is hereby declared to be the legislative intent that, if any provision or provisions of this Zoning Law or the application thereof to any building or other structure, or tract of land, are declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part, or to be inapplicable to any person or situation, the effect of such decision shall be limited to the provision or provisions which are expressly stated in the decision to be invalid or ineffective, or the zoning lot, building or other structure, or tract of land immediately involved in the controversy. All other provisions of this Zoning Law shall continue to be separately and fully effective, and the application of any such provision to other persons or situations shall not be affected.

SECTION 907 **REPEALER**

The ordinance entitled "The Zoning Ordinance for the Town of Pembroke," adopted on February 8, 1978, together with all changes and amendments thereto, are hereby repealed and declared to be of no effect.

SECTION 908 **EFFECTIVE DATE AMENDMENTS**

This Zoning Law was originally adopted by the Pembroke Town Board on December 30, 1991, and has subsequently been amended as set forth in records on file at the Pembroke Town Clerk's Office.

ARTICLE X

INCENTIVE ZONING

SECTION 1001

PURPOSE AND INTENT

The purpose and intent of these provisions are to offer incentives to applicants who provide amenities that assist the Town to implement specific physical, cultural and social policies in the Comprehensive Plan as supplemented by the local laws and ordinances adopted by the Town Board.

SECTION 1002

DISTRICTS DESIGNATED FOR INCENTIVES

All zoning districts are designated as eligible for zoning incentives. Incentives may be offered to applicants who offer an acceptable amenity to the Town in exchange for the incentive.

SECTION 1003

AMENITIES FOR WHICH INCENTIVES MAY BE OFFERED

A. The following amenities may be either on or off the subject application:

- (1) Affordable housing
- (2) Passive and active open space and related improvements
- (3) Parks
- (4) Child-care or elder-care facilities
- (5) Utilities
- (6) Road improvements
- (7) Health or other human-service facilities
- (8) Cultural or historical facilities
- (9) Other facilities or benefits to the residents of the community
- (10) Any combination of amenities and/or cash in lieu of any amenity(ies)

B. These amenities shall be in addition to any mandated requirements pursuant to other provisions of the Zoning Law.

SECTION 1004 INCENTIVES PERMITTED

The following incentives may be granted by the Town Board to the applicant on a specific site:

- A. Decreases in required minimum lot sizes
- B. Changes of use or zoning classifications
- C. Changes in setbacks or height
- D. Reduction to open space
- E. Any other changes in the provisions of the Zoning Law.

SECTION 1005 CRITERIA AND PROCEDURE FOR APPROVAL

A. Applications for incentives in exchange for amenities shall be submitted to the Town Board in order to preliminarily evaluate the adequacy of amenities to be accepted in exchange for the requested incentive, the following information shall be given by the applicant:

- (1) The requested incentive.
- (2) The proposed amenity.
- (3) The cash value of the proposed amenity.
- (4) A narrative which:
 - a. Describes the benefit to be provided to the community by the proposed amenity.
 - b. Gives preliminary indication that there is adequate sewer, water, transportation, waste disposal and fire protection facilities in the zoning district in which the proposal is located to handle the additional demands the incentive and amenity, if it is an on-site amenity, may place on these facilities beyond the demand that would be placed on them as if the district were developed to its fullest potential.
 - c. Explains how the amenity helps implement the physical, social or cultural policies of the Comprehensive Plan as supplemented by the local laws and ordinances adopted by the Town Board.

B. The Town Board shall review the proposal and inform the applicant whether or not the proposal is worthy of further consideration. If it is deemed worthy of further consideration, the applicant may then submit two (2) sketch plans to the Planning Board.

(1) The first sketch plan

a. The first sketch plan shall show how the site will be developed, with the amenity, if it is on-site, and the incentive. In addition to meeting the requirements of the Zoning Law for Site Plan Review, the plan shall also show existing development, property owners' names and tax account numbers for all property within 200 feet of the property lines of the proposed project or such other distance as specified by the Town Board.

b. If the incentive will result in a setback or open space reduction, the drawing shall show this reduction in relation to the principal structures on-site and on adjacent properties, as well as property line locations.

(2) The second sketch plan should meet the requirements of the Zoning Law for Site Plan Review; show existing development, property owner's names and tax account numbers for all properties within 200 feet of the property lines of the project site or such other distance as specified by the Town Board; but shall only show how the site would be developed exclusive of any amenity or incentive.

(3) The applicant shall also submit such additional information and plans as may be required by the Planning Board, including such additional information and plans as may be required under other sections of the Zoning Law, which, in its judgment, are necessary in order to perform a thorough evaluation of the proposal.

C. The Planning Board will review the proposal and report to the Town Board with its evaluation of adequacy with which the amenity(ies)/incentive(s) fit the site and the relation to adjacent uses and structures. The Planning Board's review shall be limited to the planning design and layout considerations involved with the project review or such other issues as may be specifically referred by the Town Board. The Planning Board's report shall be submitted to the Town Board within 70 days from the date of the Planning Board meeting at which the proposal is first placed on the agenda. This time period may be exceeded/suspended upon the consent of the applicant or for good cause by the Town Board.

D. The Town Board will review the Planning Board's report. The Town Board will notify the applicant as to whether it is willing to further consider the proposal. If the Town Board decides to further consider the proposal, it shall hold public hearing. For Town Board public hearings on incentive zoning requests, the Town Clerk shall give notice of the hearing at least five (5) days prior to the date of the hearing.

E. All applicable requirements of the State Environmental Quality Review (SEQR) Act shall be complied with as part of the review and hearing process. In addition to other information that may be required as part of the environmental assessment of the proposal, the assessment shall include verification that the zoning district in which the proposal is to be located has adequate sewer, water, transportation, waste disposal and fire protection facilities to:

(1) First, serve the remaining vacant land in the district as though it were developed to its fullest potential under the district regulations in effect at the time of the amenity/incentive proposal: and

(2) Then, serve the on-site amenity and incentive, given the development scenario in subsection E (1) above.

F. Following the hearing and in addition to compliance with all SEQR requirement, the Town Board shall, before taking action, refer to the proposal for review and comment to other governmental agencies as may be required and may refer the proposal to the Planning Board and other town Boards and officials for review and comment.

G. In order to approve and amenity/incentive proposal, the Town Board shall determine that the proposed amenity provides sufficient public benefit to provide the requested incentive. In no circumstances, however, shall the Town Board be compelled to approve any amenity/incentive proposal and it may deny any such proposal in its sole and absolute discretion. The Town Board may also impose such conditions upon its approval, as it may deem appropriate to promote the health, safety and welfare of the community.

H. Following the approval by the Town Board, the applicant may proceed to apply for any additional permits or approvals as may be required by the Zoning Law or Ordinance or any other law or regulation, including, where appropriate, site plan approval under the Zoning Law. No such additional permit or approval by any board or agency of the Town shall materially alter any condition imposed by the Town Board under Paragraph G thereof and, in the event that any permit or approval by any agency outside the Town materially alters any such condition, the project may not proceed until any unless the Town Board approves of the modification.

SECTION 1006

CASH PAYMENT IN LIEU OF AMENITY

If the Town Board finds that a community benefit is not suitable on site or cannot be reasonably provided, the Town Board may require a cash payment in lieu of the provision of the amenity. These funds shall be placed in a trust fund to be used by the Town Board exclusively for amenities specified prior to the acceptance of the funds. Cash payments shall be made prior to the issuance of a building permit. Cash payments in lieu of amenities are not to be used to pay general and ordinary town expenses.

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ADDENDUM A

The Recycling Operations Code of the Town of Pembroke (Local Law No. 2 of the Year 1985)

SECTION 1 TITLE

This local law shall be known as “The Recycling Operations Code of the Town of Pembroke, New York”.

SECTION 2 LEGISLATIVE INTENT

By enactment of this local law, the Town of Pembroke declares its intent in so doing to regulate, control and license the activities or businesses known as recycling operations or junkyards, including, but not limited to, motor vehicle “graveyards,” second-hand parts collection areas, the processing of second-hand or used metals, wooden products or other materials of whatsoever composition for resale, or the dumping or storage of second-hand or used materials of whatsoever composition for resale or otherwise.

The town board hereby declares that such activities or businesses may constitute a hazard to property and persons thereby creating a public nuisance. Such materials are often highly inflammable and explosive, and motor vehicles in this state or condition can also constitute attractive nuisances to children and adults. The presence of recycling operations or junkyards also tends to detract from a wholesome and attractive environment and often lessens the value of the surrounding lands and properties unless such areas are properly maintained and operated.

SECTION 3 DEFINITIONS. (As used in this local law.)

- (a) The term “person” shall mean an individual, an association, a partnership, or a corporation
- (b) The term “motor vehicle” shall mean all vehicles propelled or drawn by power, other than muscular power, originally intended for use on public highways.
- (c) The term “junkyard” shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or second-hand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts there-from or for the purpose of reclaiming for use some or all of the materials therein, whether metal, galas, fabric or otherwise, or for the purpose of disposing of the same or for any other purpose; such term shall not include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which taken together do not equal in bulk tow motor vehicles; such term shall also include second-hand parts collection areas, or areas for the processing or recycling of second-hand or used metals, wooden products or other materials of whatsoever composition for resale or areas

for the dumping or storage of second-hand or used materials of whatsoever composition for resale or otherwise.

- (d) The term “town” shall mean Town of Pembroke, New York.
- (e) The term “town board “ shall mean the Town Board of the Town of Pembroke, New York.
- (f) The term “town clerk” shall mean the Town Clerk of the Town of Pembroke, New York.
- (g) The term “zoning enforcement officer” shall mean the Zoning Enforcement Officer of the Town of Pembroke, New York.

SECTION 4 LICENSE REQUIRED.

No person shall engage in or conduct a junkyard on real property within the town, either for himself or for and on behalf of an person directly or indirectly as agent, employee or otherwise without first obtaining a temporary license or a license and then reapplying and obtaining a renewal thereof as hereinafter provided.

SECTION 5 APPLICATION FOR LICENSE

Each applicant shall fill out and execute under oath an application for a license to operate a junkyard within the town which application shall be supplied by the town clerk.

- (a) Said application shall include the following information: Name, age, address and citizenship of applicant, any record applicant has of convictions for any type of larceny or receiving of stolen goods, a description of the exact type of business he intends to conduct and its location, the nature of materials he intends to handle, estimated number of employees, names and addresses of the owner or owners of the land, and nature of his right of occupancy, whether by lease, ownership, or otherwise.
- (b) At the time of making such application, the applicant shall submit to and file with the town clerk a map or plan of the property upon which he intends to conduct the junkyard, the specific area on such real property which he proposes to use for such purpose, showing the location and type of the visual barrier proposed by him and the location of any buildings thereon, the location of any streets or highways abutting or passing through such real property and the location of any water, sewer, gas mains, water drainage tiles and ditches as well as the general drainage pattern of such real property.
- (c) In signing the application, the applicant shall agree that if granted the license, he will conduct the junkyard pursuant to the regulations hereinafter set forth, and upon his failure to do so, such license may be revoked by the town board in accordance with the procedures set forth in Section 6 (f) herein.
- (d) A hearing on the original application filed by an applicant shall beheld before the town board on the first Monday of the months of February, May, August, and November of each year or at such other time as determined by the town board. Applications must be received twenty-

one (21) days prior to the date of the hearing. At least two (2) weeks notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address set forth in the application and shall be published once in the newspaper having a general circulation within the town, which publication shall not be less than seven (7) days before the date of the hearing. Hearings on subsequent annual applications filed by the same applicant shall be held at the discretion of and at a time fixed by the town board, and in accordance with the notice provisions hereinabove specified..

i. License Requirements.

At the time and place set for such hearing the town board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain a junkyard. In considering such application, the town board shall take into account the suitability of the applicant with reference to his ability to comply with the visual barrier requirements hereinafter set forth, or other reasonable regulations required by it concerning the proposed junkyard, to any record of convictions the applicant has for any type of larceny or receiving stolen goods,, and to any other matter within the purpose of this section.

ii. Location Requirements.

In passing upon the same, the town board shall take into account after proof of legal ownership or right of the applicant to use such real property for the license period, the nature and development of the surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke or other causes.

iii. Aesthetic Considerations

At the hearing, the town board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this regard, the town board may consider collectively the type of roads servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to establish residential as well as the reasonable availability of other suitable sites for the junkyard.

iv. Other Laws

The town board must also determine if said junkyard complies with the town's zoning regulations and other applicable local, state and federal laws, rules and regulations including regulations covering nonconforming, pre-existing uses.

(e) Grant or Denial of Application

After such hearing or consideration of subsequent applications without a hearing the town board shall, within two (2) weeks, make a finding as to whether or not the application or

reapplication should be granted, giving notice of their finding to the applicant by registered mail, return receipt, to the address set forth in the application.

SECTION 6 **THE LICENSE**

- (a) The fee for the license is hereby filed in the sum of Fifty and 00/100 Dollars (\$50.00) and shall be paid at the time of filing the application with the Town Clerk. The sum covers both the cost of issuing the license itself and the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter set forth. It is nonrefundable.
- (b) Upon approval of the application by the town board, the town clerk shall issue a license to the applicant.
- (c) Such license shall be placed and at all times displayed in a conspicuous location at the licensee's place of business.
- (d) Such license shall be effective from the date of its issuance until the 1st day of September of the year of such issuance, or the following year if issued after April 1st. Anew application for a license must be made annually if the licensee desires to continue the operation of said junkyard.
- (e) Such license is personal with the licensee. It does not go with the title of the real property, nor may it be sold, assigned, transferred, or otherwise disposed of. In any of these instances, a new application must be filed and the above-described fee paid.
- (f) Such license may be revoked by the town board after a public hearing of which the licensee shall have notice and an opportunity to be heard. Upon the revocation of a license, the town board may require the removal of autos, parts, and other materials situate at such junkyard. Such items shall also be removed at the discretion of the town board in the case of an applicant who is denied a license to operate a junkyard.

SECTION 7 **ENFORCEMENT**

This local law shall be enforced by the zoning enforcement officer. No license for a junkyard shall be issued except in compliance with the provisions of this local law together with any other applicable laws whether local, state or federal.

SECTION 8 **REGULATIONS**

- (a) The licensee shall personally manage or be responsible for the management of the junkyard for which the license is granted.

- (b) The licensee shall maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of the junkyard so as to minimize the fire hazard therefrom and to prevent unreasonable trespass thereon by children or adults.
- (c) The said junkyard shall be surrounded by a visual barrier as follows:
 - (i) A non-see-through fence of at least eight (8) feet in height shall be erected along those sides of the junkyard bordering on a public highway, which fence shall be the parallel thereto and not nearer than fifty (50) feet from said highway right-of-way.
 - (ii) Those sides of the junkyard not bordering on a public highway shall be enclosed either by a fence of the type described in paragraph “i” above, or some other type of visual barrier which substantially screens said junkyard from the public view and does not contain spaces through which children or adults can readily enter the junkyard area.
 - (iii) Where topography, natural growth of timber, or other considerations accomplish the purposes of this paragraph in whole or in part, the fencing requirements set forth in paragraph “i” and “ii” may be reduced by the town board, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this local law.
- (d) The licensee shall maintain roadways for adequate fire protection.
- (e) The junkyard shall be locked by a secure gate after business hours.
- (f) The area of the junkyard shall not be used as a dump area or as a place for burning and disposal of junk or trash.
- (g) No equipment such as cranes, bulldozers, high-lifts, etc., shall be parked outside of the junkyard area. Trucks loaded with material for transport or any other reason shall also not be parked outside of the junkyard area for a period not to exceed twenty-four (24) hours.
- (h) The zoning enforcement officer, or his agent, shall be granted access to the junkyard area at all reasonable hours for the purpose of inspection.
- (i) An inspection by the zoning enforcement officer shall be made within one week after an application for a license to operate a junkyard has been submitted to the town clerk.

SECTION 9 VIOLATION OF LOCAL LAW CONSTITUTES AN OFFENSE; PENALTIES THEREFOR.

- (a) The owner or licensee of any junkyard who commits or permits any acts in violation of any of the provisions of this local law shall be deemed to have committed an offense against such local law and, if convicted thereof, shall be liable for each such violation and/or the penalties assessed therefore. Each week

any violation continues or is permitted to exist, shall constitute a separate violation.

- (b) For each violation of this local law, the person liable therefore, shall be subject to a fine of not more than One Hundred and 00/100 dollars (\$100.00) or imprisoned for a period not exceeding fifteen (15) days, or by both such fine and imprisonment.
- (c) A conviction for violation of Section “8” of this local law shall, at the discretion of the town board, constitute and effect an immediate forfeiture of the license to operate a junkyard, without prejudice to the licensee thereafter reapplying for such license upon correcting said violation.
- (d) In addition to the above-mentioned penalties and punishment, the town board may also maintain an action or proceeding in the name of the town, in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this local law.
- (e) In lieu of, or in addition to, proceeding in accordance with subparagraphs “(a)” through “(d)” above, the town board and the licensee may agree to an appropriate schedule or timetable to bring the junkyard into compliance with the provisions of this local law.

SECTION 10 ESTABLISHED JUNKYARDS: TEMPORARY LICENSES

Any person currently operating a junkyard on real property located within the town shall apply for a license therefore within thirty (30) days after the effective date of this local law, in accordance with the application and hearing provisions of SECTION “5” herein. If the junkyard presently complies with the regulations set forth in SECTION “8” herein, the town board shall issue a license therefore. If, however, the junkyard does not comply with the regulations of said section, the town clerk shall issue a temporary license for period of three (3) months, which license shall be renewable for three (3) additional such periods. The licensee shall utilize such period(s) of time so as to arrange his place of business to comply with the provisions of said section. If, at the end of said temporary license period(s) the person has not so complied, he shall immediately discontinue the operation of said junkyard, and at the discretion of the town board remove any autos, parts, or other materials located thereat and involved in said junkyard business.

In the event that a junkyard business is sold, assigned, transferred, or otherwise disposed of, the town board may, without a hearing, extend a temporary license to the new owner for a period not to exceed sixty (60) days pending a final determination of said new owner’s license application submitted in the manner set forth in SECTION “5” herein.

SECTION 11 PETITION FOR REVIEW AND COMPLIANCE

Any resident of the town may petition the zoning enforcement officer to enforce the provisions of this local law against any licensee violating the same. Such petition must allege such violation and be signed by the person alleging the same. Upon receipt of such signed petition, the

zoning enforcement officer shall take all actions necessary to investigate the allegations contained therein and enforce the terms of this local law so that said junkyard business is in compliance with the terms and requirements thereof.

SECTION 12 **JUDICIAL REVIEW**

Any applicant for a licensee or existing licensee aggrieved by any final determination of the town board may petition to have such determination reviewed under Article 78 of the New York Civil Practice Law and Rules.

SECTION 13 **OTHER LAWS**

Unless otherwise specified therein, compliance with the provisions of this local law shall not preclude, or otherwise operate to excuse compliance with, the requirements of other applicable local, state, and/or federal laws including, but not limited to, zoning regulations of the Town of Pembroke.

SECTION 14 **SAVING CLAUSE**

If any clause, sentence, paragraph, section, or part of this local law shall be adjudged by a court to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

SECTION 15 **EFFECTIVE DATE AND REPEAL**

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the New York Municipal Home Rule Law. The existing Junkyard Ordinance of the Town of Pembroke is hereby repealed.

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ADDENDUM B

TOWN OF PEMBROKE LOCAL LAW NO. 3 OF 2003 TOWN OF PEMBROKE LAND SEPARATION LOCAL LAW

ARTICLE I PURPOSE

This Local Law is enacted by the Town Board of the Town of Pembroke pursuant to the provisions of Section 10 of Municipal Home Rule Law to regulate the division of land into individual lots, when such divisions of land fail to meet the threshold for review as a subdivision as set forth in the Town of Pembroke Land Subdivision Regulations. It is declared to be the policy of the Town of Pembroke to consider land separations as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that lots created by land separations shall be of such character that they can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace; that proper provision shall be made for drainage, water supply, wastewater treatment, and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in compliance with the Town of Pembroke Zoning Law and in harmony with the development pattern of the neighboring properties.

ARTICLE II TITLE

This Local Law shall be known as "the Town of Pembroke Land Separation Local Law"

ARTICLE III DEFINITIONS

Clerk of Planning Board: The individual appointed by the Pembroke Town Board.

Formal Offer to Sell: Any offer to sell land, which involves a form of public offering including but not limited to real estate listings, auction listings, media advertising (printed, radio, television, etc.) or use of signs.

Land Separation: Any division of land into four or fewer lots within a three-year period, where all such developable lots or parcels: (1) front on an existing public street, (2) do not require the extension of municipal facilities, and (3) comply with all the area requirements (i.e., lot width, lot area, etc.) set forth in the Zoning Law or have received all necessary area variances. Any division of agricultural land for the purpose of continued agricultural use shall be considered a land separation and subject to the Town of Pembroke Land Separation Local Law. The three-year period shall commence running upon the final approval by the Planning Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets, or for the installation or construction of municipal facilities, shall not be included within this definition nor subject to these regulations. Land separation shall also include the division of land to allow the transfer of property between adjacent parcels, provided nonconforming lots or parcels are not created, no existing degree of nonconformity is increased and the proposed division does not involve the alteration of lot lines or dimensions of any lots or sites shown on a subdivision plat previously

approved and filed with the County Clerk. Land separations shall be processed in compliance with the Town of Pembroke Land Separation Local Law unless the Planning Board deems it necessary for the protection of public health, safety, and welfare (i.e. storm water drainage, topography, etc.) that a land separation be processed as a subdivision.

Lot: A parcel of land intended for transfer of ownership or site development, that is presently occupied or capable of being occupied by a principal building or use and uses accessory to the principal building or use.

Municipal Facility: Facilities operated by either a municipality or governmental agency for the provision of potable water; collection, treatment and/or disposal of waste water; lighting, stormwater and/or erosion control; or provision of/for transportation (streets, highways, etc.).

Property Owner: The owner of the property subject to the proposed land separation, or his/her duly authorized representative (such authorization shall be provided in writing).

Subdivision: Division of land into lots that is not considered a land separation as defined herein. Subdivisions shall include, but are not limited to the division of land into five or more lots in a three year period, or division into any number of lots when such lots: (1) do not front on an existing public street, or (2) require the extension of municipal facilities. This definition shall apply when land is divided for the purpose, whether immediate or future, of transfer of ownership or development, and shall include re-subdivision. Once the division of land is determined to be a subdivision, the Town of Pembroke Subdivision Regulations shall apply to all such lots, including any previous lots divided within the prior three year time period, regardless of whether said lots have been sold singly or collectively. The three-year period shall commence running upon the final approval by the Planning Board of the first application to divide the original parcel. Public acquisitions by purchase of strips of land for the widening or opening of streets shall not be included within this definition nor subject to said subdivision regulations. Once a subdivision has been created, any subsequent division of lots from the original tract of land, irrespective of when such division(s) occurs, shall be subject to review as a subdivision, unless such proposed lot(s) are greater than one-half mile from any point on the boundary lines of a lot(s) created by a previous subdivision.

Zoning Law: The officially adopted Zoning Law of the Town of Pembroke together with all amendments thereto.

ARTICLE IV PROCEDURE

Whenever any land separation is proposed, before any formal offer to sell any lots in such land separation, or any other part thereof, is made, and before any contract for sale is executed by the property owner, the property owner shall submit a sketch plan and obtain written approval of such sketch plan in accordance with the procedures set forth in Section 1, 2 and 3 of this Article. Before any land is transferred or any permit for the erection of a structure is issued for such land, final authorization of said land separation shall be obtained as set forth in Section 4 of this Article.

SECTION 1 **SUBMISSION OF SKETCH PLAN**

A property owner shall, prior to undertaking a land separation, submit to the Clerk of the Planning Board at least seven days prior to any regular meeting of the Board, a completed application for and eight copies of a Sketch Plan of the proposed land separation. The Sketch Plan shall show: (1) The entire parcel being divided, proposed lot lines, and (2) Any existing easements, deed restrictions or covenants affecting the property. At that time, the property owner shall also pay the Land Separation fee established by separate resolution of the Town Board.

SECTION 2 **REQUIREMENTS AND CLASSIFICATION**

The property owner shall attend the meeting of the Planning Board to discuss his/her proposal as set forth in the Sketch Plan. Classification of the Sketch Plan will be made at this time by the Planning Board as to whether the proposal qualifies as a land separation, or must be processed as a subdivision. When it deems necessary for protection of the public health, safety and welfare, the Planning Board may require a land separation to be processed as a subdivision in compliance with the Town of Pembroke Land Subdivision Regulations.

SECTION 3 **PLANNING BOARD PRELIMINARY DECISION**

The Planning Board shall review the Sketch Plan to determine whether it meets the purpose of these regulations as set forth in Article I. Prior to rendering it's preliminary decision, the Planning Board shall first complete the SEQR (State Environmental Quality Review) process. The Planning Board shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the proposal prior to submitting it for final authorization. When deemed necessary by the Planning Board, the applicant may be required to resubmit his/her revised proposal for review by the entire Planning Board prior to submitting it for final authorization.

SECTION 4 **FINAL AUTHORIZATION**

Within 180 days of Planning Board approval, the property owner shall provide the Planning Board Chairperson, or his/her designee, three prints of a property survey prepared by a NYS Licensed Land Surveyor. This survey shall meet all the recommendations made by the Planning Board relative to the sketch plan. Upon determination that the survey complies with the Planning Board's recommendation, the Chairperson, or other duly designated Officer of the Planning Board, will sign the application and provide the property owner with a copy of such application. Failure of the property owner to submit the required survey documentation to the Planning Board Chairperson, or his/her designee, within the 180-day time period will render the Planning Boards approval null and void.

SECTION 5 **FILING OF SURVEY(S) WITH COUNTY CLERK**

Within sixty (60) days of obtaining final authorization from the Planning Board Chairperson, or his/her designee, the property owner shall file the survey(s) at the Genesee County Clerk's Office. Failure of the property owner to file such documentation with the Genesee County Clerk within the specified time period will render both the Planning Board's approval and final authorization null and void.

ARTICLE V **WAIVERS OR MODIFICATIONS**

Where the Planning Board finds that special circumstances exist in a proposed Land Separation, it may waive or modify specific requirements of this Local Law, subject to appropriate conditions, provided that such waiver or modification shall not have the effect of nullifying the intent and purpose of the Town of Pembroke Land Separation Local Law, Subdivision Local Law, Zoning Law, Comprehensive Plan, or any existing master plan and official map. In granting said waivers or modifications, the Planning Board may require such conditions as will, in its' judgment, substantially secure the objectives of the standards or requirements so waived or modified.

ARTICLE VI **FEES**

The Town of Pembroke has a Fee Schedule on file at the Town Clerk's Office. Copies of this Schedule are available and any fees due the Town must be paid in full before approvals are considered.

ARTICLE VII **VIOLATION AND PENALTY**

- A. Any violation of this Local Law shall be deemed an offense punishable by a fine and/or imprisonment as set forth in Section 268 of NYS Town Law. Each and every week such violation continues shall be deemed a separate and distinct violation.

- B. It shall be further unlawful for any person to fail to comply with a written order of the Zoning Enforcement Officer within the time fixed for compliance therewith.

- C. Appearance Ticket - The Zoning Enforcement Officer may issue an appearance ticket to any person who fails to respond to a notice of violation and written order to correct the violation.

- D. The Zoning Enforcement Officer may, with permission of the Town Board, engage the Town Attorney or any other attorney approved by the Town Board to initiate legal action to enforce provisions of this Local Law.

- E. In addition to the foregoing remedies, the Town of Pembroke and/or its appropriate officials and authorities may maintain an action for injunction to restrain, correct or abate any violation of this Local Law and/or maintain an action at law for damages sustained as a result of any violation of this Local Law and/or seek any other remedy permitted by law including Town Law Section 268. Damages shall include, but not be limited to, the legal fees and court costs expended or incurred by the Town as a result of any legal proceedings brought hereunder.

ARTICLE VIII

SUPERSEDING AND REPEALER CLAUSE

All applicable statutes, laws and local ordinances; in conflict with the provisions of this Local Law, including Sections 276 and 277 of New York State Town Law, are hereby superseded to the extent necessary to give this Local Law full force and effect.
Town of Pembroke Local Law No. 1, of 1992 is hereby repealed.

ARTICLE IX

EFFECTIVE DATE

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

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ADDENDUM C												
Zoning Schedule A							Town of Pembroke (12/11/2013)					
ZONING DISTRICT	PERMITTED USES	Article III. MINIMUM LOT SIZE (Sq. Ft.) (1)	MINIMUM FRONTAGE (Feet)	MINIMUM YARD SIZE (Feet)			MAX. HEIGHT (Feet)	MAX. LOT COVERAGE (%)	MIN. FLOOR AREA/UNIT (Sq. Ft.)		MINIMUM MANDATORY OFF STREET PARKING SPACE/UNIT	SITE PLAN
				FRONT	REAR	SIDE			Primary Unit	Other Unit(s)		
AG	Single Family	40,000 (4)	200 (4)	50	50	25	35	20	720	n/a	2	YES
	Non-Residential	80,000	300	75	50	25	35	20	n/a	n/a	DETERMINED BY USE	YES (3)
AG-R	Single Family	40,000	200	50	30	25	35	20	720	n/a	2	NO
	Two-Family	40,000	200	50	30	25	35	20	720	500	2	NO
	Multi-Family	40,000 +4,000	250	50	30	25	35	20	n/a	500	2	YES
	Non-Residential	80,000	250	50	30	25	35	20	n/a	n/a	DETERMINED BY USE	YES (3)
R	Single Family (w)	20,000	100	50	30	15	35	25	720	n/a	2	NO
	Single Family (w&s)	16,000	75									
	Two-Family (w)	30,000	150	50	30	15	35	25	720	500	2	YES
	Two Family (w&s)	20,000	100									
MDR	Single Family	20,000	100	50	30	15	35	25	720	n/a	2	NO
	Two-Family	30,000	150	50	30	15	35	25	720	500	2	NO
	Multi-Family	40,000 +4,000	250	50	30	15	35	20	n/a	500	2	YES
	Non-Residential	40,000	150	50	30	15	35	20	n/a	n/a	DETERMINED BY USE	YES (3)
LC	Residential	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	2	YES (3)
	Limited Commercial	40,000	200	75 (2)	30	35	35	35	n/a	n/a	DETERMINED BY USE	YES (3)

ADDENDUM C

Zoning Schedule A (page 2)

Town of Pembroke (12/11/2013)

ZONING DISTRICT	PERMITTED USES	Article III. MINIMUM LOT SIZE (Sq. Ft.) (1)	MINIMUM FRONTAGE (Feet)	MINIMUM YARD SIZE (Feet)			MAX. HEIGHT (Feet)	MAX. LOT COVERAGE (%)	MIN. FLOOR AREA/UNIT (Sq. Ft.)		MINIMUM MANDATORY OFF STREET PARKING SPACE/UNIT	SITE PLAN
				FRONT	REAR	SIDE			Primary Unit	Other Unit(s)		
C	Residential	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	2	YES (3)
	Commercial	40,000	200	75	30	35	35	35	n/a	n/a	DETERMINED BY USE	YES (3)
INT	Commercial/Industrial	40,000	200	75 (2)(6)	30	35	60	35	n/a	n/a	DETERMINED BY USE	YES (3)
I	Industrial	80,000	200	75	30	35	35	35	n/a	n/a	DETERMINED BY USE	YES (3)
EP	EARTH PRODUCTS - Refer to SECTIONS 409 and 607											
PUD	PLANNED UNIT DEVELOPMENT - Refer to SECTION 410											
FPO	FLOOD PLAIN OVERLAY ZONE - Refer to SECTION 411											

- NOTES:**
- (1) Excluding highway Right-of-Way.
 - (2) Except Route 77 from the Thruway to Corfu shall be 125 feet.
 - (3) Agricultural uses (farms) shall be exempt, except for animal waste storage facilities.
 - (4) Minimum and Maximum
 - (5) Same as Ag-R District Requirements
 - (6) In the Interchange District the front yard setback for a public highway used as a 'service road', with no through traffic in an identified industrial or corporate park, shall be a minimum of fifty (50) feet. Front yard setbacks to all other public highways shall be as set forth in Schedule A.
 - (w) serviced by public water
 - (w&s) serviced by public water and public sewer