



2017

TOWN OF PERTH, NY FULTON COUNTY ZONING LAW



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TOWN OF PERTH

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LIST OF ACRONYMS

ADA	Americans with Disability Act
AM	Amplitude Modulation
BTZ	Business Technology Zone
CAFO	Concentrated Animal Feed Operation
CEO	Code Enforcement Officer
dc	Direct Current
DEIS	Draft Environmental Impact Statement
EAF	Environmental Assessment Form
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
HVAC	Heating, Ventilation and Air Conditioning
Kw	Kilowatt
NYCRR	New York Codes, Rules and Regulations
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
PV	Photovoltaic
RV	Recreational Vehicle
SEQR	State Environmental Quality Review
Sq. Ft.	Square Feet
SWPPP	Stormwater Pollution Prevention Plan
ZBA	Zoning Board of Appeals

ARTICLE 1 GENERAL PROVISIONS

A. **Title.** This Local Law shall be known and cited as the “Zoning Law of the Town of Perth”.

B. **Authority.** This Local Law is enacted pursuant to Article 16 of the Town Law of New York State and Article 2 of the Municipal Home Rule Law of New York State.

C. **Purpose.** The purpose of this Local Law is to:

1. Assist in the implementation of the overall goal of the Town’s Comprehensive Plan, which is to preserve our residents’ quality of life, enhance the character of the community, encourage growth and diversification in the local economy, a variety of residential living options and, at the same time, protect and conserve our natural environment and invaluable natural resources.
2. Protect and promote the public health, safety and general welfare of the Town for the benefit of its citizens.
3. Prevent the pollution of air, surface and groundwater, to assure the adequacy of drainage facilities, and to encourage the wise use and sound management of the Town’s natural resources in order to preserve the integrity, stability and beauty of the community and the value of the land.
4. To facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.
5. To foster orderly change in the community conserving the value of property and encouraging the appropriate use of the land throughout the Town, with reasonable consideration, among other things to the character of the districts and their particular suitability for specific uses.
6. Encourage the continuation and diversification of agricultural activities.
7. Ensure that the design of new developments protect open space, environmentally sensitive areas, community character and other important natural resources in the Town.
8. Enhance the overall appearance of the Town of Perth.

D. **Applicability.** 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 compliance with this Zoning Law.

- E. **Severability.** Should any clause, sentence, subdivision, paragraph, section or part of this Local Law be decided by a Court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Local Law as a whole, only the clause, sentence, subdivision, paragraph, section or part so decided to be unconstitutional or invalid.
- F. **Conflicting Provisions.** The provisions of this Local Law shall be held to be the minimum requirements for the promotion of public health, safety and general welfare. When this Local Law imposes a greater restriction on the use of buildings or land or the height of buildings or requires larger open spaces or makes any other greater requirement than is imposed or required by any other law, rule or regulation or by easements, covenants or agreements this Local Law shall apply.

ARTICLE 2

DEFINITIONS

The following terms whenever used in this Article shall have the meanings as set forth below. Any such terms used in the singular shall be held to include the plural. Any such terms or any other terms not defined in this section used in the masculine shall be held to include the feminine. In this Article, any references to a governmental agency, official, or entity, shall also include any subsequent name designation, successors in interest or in jurisdiction. Terms used in this Article and not herein defined shall be interpreted to have their commonly understood meaning.

Accessory Dwelling Unit shall mean a residential dwelling unit, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building. An accessory dwelling unit shall have one or more rooms with provisions for living, cooking, sanitary and sleeping facilities. A travel trailer or manufactured home shall not be considered an accessory dwelling. Any dwelling unit having an attached accessory dwelling and served by separate utility meters from the primary dwelling unit shall be considered by the Town to be a two-family dwelling/duplex.

Accessory Structure shall mean a structure subordinate to the principal use of a lot, or of a principal building on the same lot, and serving a purpose clearly incidental to a permitted principal use of the lot or of the building and which accessory structure is compatible with the principal permitted uses or structures authorized under zoning regulations applicable to the property.

Accessory Use shall mean a use customarily incidental to the principal use or occupancy of a building. In a multiple family dwelling, such accessory uses may include, among others, the following: offices for the building management; dining rooms, banquet rooms, public kitchens, and ballrooms; recreation and play rooms; laundries for the use of tenants and occupants, and in connection with the management and operation of the multiple dwelling; maintenance and workshops, storage rooms for linen, bedding, furniture, supplies and tenants' equipment and effects; rooms or space for the incidental sale or display of merchandise to occupants and tenants, such as newspaper, candy and cigar stands; and garages within the multiple dwellings or on the premises thereof used primarily for the storage of passenger-type motor vehicles.

Adult Uses Defined in Article 14 for this Law.

Agricultural Distillery shall mean and include any premises located on a farm where liquor is manufactured primarily from farm and food products and sold. A not insignificant portion of the production shall consist of agricultural products produced on the farm. Such use shall conform with applicable New York State rules, regulations, and licensing requirements.

Agricultural Processing Plant shall mean a facility used for the cooking, dehydrating, refining, bottling, canning, or other treatment of agricultural products, which may change the naturally grown product for consumer use. May include warehousing, cold storage and packaging as secondary uses.

Agricultural Services shall mean a use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes sales incidental to the primary use such as food sales and farm machinery repair services.

Aquaculture Facility The hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

Animal Pound or Shelter a facility used to house or contain stray, homeless, abandoned or unwanted animals that is owned, operated or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals or other non-profit organization devoted to the welfare and protection and humane treatment of animals.

Assisted Living Residence a housing facility for people with disabilities. These facilities provide supervision or assistance with activities of daily living, coordination of services by outside health care providers; and monitoring of resident activities to help to ensure their health, safety, and well-being. Assistance may include the administration or supervision of medication, or personal care services provided by a trained staff person. Assisted living is an eldercare alternative on the continuum of care for people, for whom independent living is not appropriate but who do not need the 24-hour medical care provided by a nursing home.

Auto Body and Paint Shop shall mean a facility which provides repair services for collision and other repairs to the auto body including body frame straightening, replacement of damaged parts, undercoating, and painting. Such repairs do not include mechanical engine or power train repair.

Auto Dealership shall mean any establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, or motorcycles or other similar motorized transportation vehicles. An automobile dealership may maintain an inventory of the vehicles for sale or lease on-site or at a nearby location and may provide on-site facilities for the repair and servicing of the vehicles sold or leased by the dealership.

Automobile Rental/Leasing Rental of automobiles and light trucks and vans, including incidental parking and servicing of vehicles for rent or lease.

Automobile Repair Services The use of a site for the repair of automobiles, noncommercial trucks, motorcycles, motor-homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, tire sales and installation, wheel and brake shops, body and fender shops and similar repair and service activities, but excludes dismantling or salvage. May also include gasoline sales.

Bakery, Retail shall mean an establishment primarily engaged in the retail sale of baked products for consumption on and off site. The products may be prepared either on or off site. If the production area is onsite, it cannot exceed 1,500 sq. ft. Such use may include incidental food service.

Bakery, Wholesale shall mean a bakery primarily engaged in the production and/or wholesaling of baked goods, with or without over-the-counter retail dispensing of baked goods.

Banks/Credit Union shall mean a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Banquet Hall A structure leased or rented for private parties or functions.

Bar, Nightclub or Tavern An establishment serving alcoholic beverages in which the principal business is the sale of such beverages for consumption on the premises and where sandwiches, snacks or other light fare may be available for consumption on the premises. These establishments may also include live entertainment.

Barber Shop An establishment or place of business within which the practice of barbering is engaged in or carried on by one (1) or more barbers.

Beauty Salon An establishment where a cosmetology or place of business where cosmetology is offered or practiced for compensation by one or more cosmetologists. This use shall also include a nail salon.

Bed and Breakfast shall mean any establishment, typically in the style of a single-family dwelling or homestead, that provides overnight, temporary lodging and breakfast for guests. Such establishments shall not have more than 8 lodging rooms for rental and shall be available for rental no less than 30 nights in a 12-month period. Meals other than breakfast shall not be provided as a service with this use.

Boarding House/Rooming House shall mean a dwelling or building other than a hotel or motel where more than two but less than fifteen rooms are used, rented, or hired out for sleeping purposes, typically on a long-term basis, and where tenants share cooking facilities or where meals may be provided by the owner or operator to such guests.

Brew Pub A restaurant that manufactures up to 5,000 barrels of beer per year on premises for either consumption on or off site.

Building shall mean a structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

Building Area shall mean the total area measured on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

Building Coverage shall mean the percentage of the lot area covered by the building area. See "Building Area."

Building Height shall refer to the vertical distance measured from the average level of the finished ground surface across the front of the building to the highest point of the roof for flat roofs, to the neckline of mansard roofs and to the mean height between eaves and ridge for gable, hop and gambrel roofs.

Building Line shall refer to the line or setback established by law, ordinance or regulation, beyond which no part of a building, other than parts expressly permitted, shall extend.

Business Services shall mean establishments primarily engaged in rendering services to business establishments on a fee or contract basis; such as advertising and mailing, building maintenance, employment service, management and consulting services, protective services, equipment rental and leasing, commercial research development and testing, photo finishing, printing and publishing and personal supply services.

Car Wash shall mean mechanical facilities for the washing, waxing, and detailing of private automobiles, light trucks and vans, but not commercial fleets. Can be an accessory use to a convenience store or automobile repair service.

Cemetery A place used for internment of human remains or cremated remains including a burial park for earth internments, a mausoleum for vault or crypt internments, a columbarium for cinerary internment, crematories, mausoleums and mortuaries or a combination thereof.

Cemetery, Pet Land together with any structures, facilities or buildings appurtenant thereto provided to members of the public for use or reservation for use for the individual internment above or below ground of pet remains. This does not include land used exclusively for landfilling or the communal burial of pets but does include an area where a portion of the land is used for the communal burial of pets.

Church A building or structure or groups of buildings and structures which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith. Church shall be synonymous with Place of Worship.

Co-Generation shall mean a privately-owned non-utility installation that generates or harnesses heat, electricity, or gas from waste or by-products generated from principal agricultural uses onsite and which energy is used to operate all or a portion of principal onsite uses. Such facility shall operate as an accessory use for purposes of this chapter. Unused electricity generated through co-generation on the site may be supplied consistent with applicable law to an offsite electric grid.

Commercial Extraction shall mean the extraction of earth materials for commercial purposes such as gravel pits, rock quarrying, subsoil removal, and/or removal of such materials for sale, (other than what might be required for the erection of buildings or related to an allowed agricultural use). This use shall include the extraction of mineral resources that meet or exceed the thresholds for regulation pursuant to the New York Mined Land Reclamation Law.

Commercial Fuel Sales, Storage and Distribution shall mean an establishment, which provides the sales, storage, and distribution of liquid or gas fuels as its principal service. Onsite storage of fuel may mean either above or below ground. The term shall not be construed to mean a gasoline service station as otherwise defined herein. The sale of portable fuel tanks or the storage of fuel for commercial or institutional vehicle fleets shall not cause such business to be classified as a commercial fuel sales and storage facility, if only such fuel is sold or stored in a manner that is clearly incidental to the primary onsite business.

Commercial Landfill Privately-owned and/or operated facility for the disposal of solid waste, hazardous waste or construction and demolition debris.

Commercial, Recreation and Amusement shall mean a commercial establishment where facilities, equipment, rides, or courses are provided primarily as attractions for the amusement and recreation of visitors. Such attractions may be temporary or permanent. Examples of attractions include, among others, bowling alley, driving ranges apart from a golf course, miniature golf, batting cages, motorized carts and motorcycle tracts, all-terrain vehicle courses, water slides, amusement parks, downslope skiing, cross country skiing, sports arenas, rinks, firing ranges, paint-ball courses, and circuses. Gift shops, equipment supply, and eateries may be included as accessory uses.

Commercial, Storage shall mean any establishment that provides facilities available to the public for a fee, with or without security or climate control, for short- or long-term storage, self-service or otherwise.

Community Residence shall mean any residence, facility, place or building which is maintained and operated to provide non-medical residential care, day care for children, adults or children and adults, including but not limited to the physically handicapped, mentally impaired, or incompetent persons, developmentally disabled, mentally disordered children and adults, court wards and dependents, neglected or emotionally disturbed children, alcohol or drug-addicted children or adults, battered adults or children, and aged persons. (A Community Residential Facility as defined by New York State Mental Hygiene Law Section 41.34 is statutorily exempt from local zoning.)

Concentrated Animal Feed Operation (CAFO) A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

Condominium shall mean a system of ownership of individual units in a multiunit structure, combined with joint ownership of commonly used property such as sidewalks, hallways, stairs, etc.

Conference Center shall mean a facility used for service organizations, business and professional conferences, and seminars limited to accommodations for conference attendees. The accommodations can include sleeping, eating, and recreation. A conference center is not designed to be only utilized by the general public for overnight purposes.

Convenience store shall mean a small retail establishment containing less than 5,000 sq. ft. of gross floor area and that is usually located within or associated with another use, that offers for sale convenience goods, such as prepackaged food items, tobacco, periodicals, and a limited selection of customary household goods. Such stores are designed to attract and depend upon a large volume of stop and go traffic and may also sell gasoline but not include automobile repair services.

Cooperative shall mean a multiple-family dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Correctional Facilities Publicly or privately-operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. The term shall include prisons, jails, or other detention facilities operated by local, State or federal governments or a third party contracted by a government agency.

Country Inn shall mean an establishment providing overnight accommodations for guests with limited service. Guest rooms are decorated with an at-home feeling, and specialized décor may include antiques. May lack some modern amenities such as TVs or phones. Offers a dining room which reflects the ambience of the inn. A business offering overnight lodging and meals where the owner is actively involved in daily operations, often living onsite. At a minimum, breakfast is served. They normally serve at least one meal in addition to breakfast, and operate as restaurants as well as overnight lodging accommodations.

Dance Studio an establishment used to provide dancing instruction.

Daycare Center shall mean a center for children as defined in 18 NYCRR 413.2(b)(1).

Daycare, Family shall mean a center for children as defined in 18 NYCRR 413.2(b)(2).

Daycare, Group Family shall mean a center for children as defined in 18 NYCRR 413.2(b)(3).

Drive-in Service Establishment an establishment accommodating the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.

Dwelling Unit shall mean one (1) or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for the use of one (1) family.

Educational Facilities An institution or enterprise dedicated primarily to education. Educational use may refer to, among others, business education programs, evening schools, trade schools, universities, colleges and art schools. Educational uses also include public or private schools that are certified or accredited by the State of New York to teach children.

Emergency Medical Services (EMS) refers to the treatment and transport of people in crisis health situations that may be life threatening. Emergency medical support is supplied in a wide variety of situations from car accidents to drowning to incidents of heart attack.

Equipment Sales and Rental Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, such as tractors and combines and similar industrial equipment, and the rental/sale of mobile homes for Job Trailers. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

Engineering Facilities facilities concerned with the science and technology of design, building and use of engines, machines and structures.

Family shall mean one (1) or more persons occupying a dwelling unit and living as a single non-profit housekeeping unit.

Fence Any barrier made of wood, vinyl, metal, chain link, stone or stone like materials or combination of these materials erected or maintained to enclose or screen areas of land, to divide a piece of land into distinct portions or for use as a boundary.

Flea Market A lot or parcel, or portion thereof, with outdoor stalls, booths, or selling spaces used for the display of used or new goods, wares, merchandise, antiques, collectibles and arts and crafts. Includes craft fairs.

Floor Area, Net The horizontal area of a floor or several floors of a building or structure; excluding those areas not directly devoted to the principal or accessory use of the building or structure, such as storage areas or stairwells, measured from the exterior faces of exterior or interior walls. That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers.

Floor Area, Gross The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Food and Beverage Industry Food manufacturing businesses transform livestock and agricultural products into products for intermediate or final consumption. The industry group is distinguished by the raw materials (generally of animal or vegetable origin) processed into food products. The food products manufactured in these establishments are typically sold to wholesalers or retailers for distribution to consumers but establishments primarily engaged in retailing bakery and candy products made on the premises not for immediate consumption are included. Beverage manufacturing businesses include the following three (3) types of establishments:

1. Those that manufacture non-alcoholic beverages.
2. Those that manufacture alcoholic beverages through the fermentation process.
3. Those that produce distilled alcoholic beverages.

Ice manufacturing, while not a beverage, is included with non-alcoholic beverage manufacturing because it uses the same production process as water purification.

Funeral Home shall mean a building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home as defined for purposes of this code, includes a funeral chapel.

Geothermal Energy Systems Energy systems installed in shallow ground, typically the upper 10' of the Earth's surface, where temperatures remain nearly constant at between 50° and 60° F (10° and 60° C). The systems include a geothermal heat pump that can tap into this resource to heat and cool buildings. The system consists of a heat pump and air delivery system and a heat exchanger which involves a system of pipes buried in the shallow ground near the building. In the winter, the heat pump removes heat from the heat exchanger and pumps it into the indoor air delivery system. In the summer, the process is reversed and the heat pump removes heat from the indoor air into the heat exchanger. The heat removed from the indoor air during the summer can also be used to provide a free source of hot water. The term shall not include large-scale systems that involve pumping water into cracks in the Earth's crust and then conveying heated water or steam back to the surface so that it can be extracted through a heat exchanger or its pressure can be used to drive turbines.

Golf Course or Country Club shall mean a tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses. A golf course may also include a practice green and driving ranges, but shall not include a miniature golf course or other similar enterprise.

Government Administration Buildings A building or structure owned, operated or occupied by a governmental agency to provide a governmental service to the public.

Health Care Facility shall mean an institution, licensed by the state department of health, 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, clinics, outpatient facilities, or training facilities. The term shall be deemed to include sanatorium.

Health Club/Fitness Center a building or portion of a building designed and equipped for the conduct of sports, exercise, leisure time activities or other customary and usual recreational activities operated for profit or not-for-profit and which can be opened only to bona fide members and guests of the organization or open to the public for a fee. This use shall also include a day spa.

Heavy Equipment Repair Repair of construction equipment, commercial trucks, agricultural implements and similar heavy equipment, including automobiles, where major engine and transmission repairs are conducted.

Home Occupation shall mean a business conducted as an accessory use which is clearly incidental to or secondary to the residential use of the dwelling unit and does not change the character thereof and is carried on wholly within the enclosed walls of a dwelling unit or accessory building by the occupant(s) of such dwelling and in which not more than 2 persons not residing in such dwelling unit may be employed on site. Home occupations are either “off site” or “on site.”

- a. Home Occupation, Off Site Service – A home occupation in which the owner meets customers off premises or electronically and thus does not generate additional traffic.
- b. Home Occupation, On Site Service – A home occupation in which the owner meets customers on premises and thus the business generates additional traffic.

Homeowners Association shall mean an entity duly created pursuant to New York State Not-for-Profit Corporation Law and established for the purpose of maintaining lands and facilities held in common ownership by the Association.

Hotel shall mean an establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed lines, and telephone and desk services. Related accessory uses may include conference and meeting rooms, restaurants, bars, and recreational facilities.

Incinerators An apparatus for burning waste material, especially industrial waste, at high temperatures until it is reduced to ash. These facilities include burn plants or power generating plants which use as fuel, wholly or in part, solid waste, hazardous waste, medical waste, sludge, soil or construction and demolition debris.

Junkyard The outdoor storage or deposit of five (5) or more junk vehicles, two (2) or more junk mobile homes, five (5) or more junk appliances, five (5) or more pieces of junk furniture or any combination of these that totals five (5) or more items. Junkyards that are legally in existence and/or in operation as of the effective date of this Local Law shall continue to be governed by the standards of the Junk Storage Law, Town of Perth Local Law No. 2 1998.

Kennel Any premises, except where accessory to an agricultural use, where domestic animals, such as dogs and cats, are boarded, trained, or bred.

Laboratory shall mean a building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation.

Land Spreading The placement or spreading on land of any material that is or includes domestic, commercial or industrial septage, liquid or solids from any septic tank or grease from any commercial grease trap.

Landowner shall mean any individual, firm, partnership, corporation, trust or other legal entity owning land. Landowner is sometimes referred to as Owner of Record.

Laundromat shall mean a business that provides either washing, drying, ironing, or any combination of such services for hire and use by customer on the premises. This use shall also include a dry cleaner.

Livestock Auction or Sale shall mean an enclosure or structure designed and used for holding livestock for sale or transfer by auction, consignment, or other similar means.

Lot shall refer to a parcel of land considered as a unit, occupied or capable of being occupied by one (1) building and accessory buildings or uses, or by a group of buildings united by a common use or interest and including such open spaces as are required by this chapter and having its principal frontage on a public street or an officially approved place.

Lot Area shall mean the total area included within lot lines, except that no part of the area within a public right-of-way may be included in the computation of "lot area."

Lot, Corner shall mean a lot located at the intersection of and fronting on two (2) or more intersecting streets and having an interior angle at the corner of intersection of less than one hundred thirty-five (135) degrees.

Lot Depth shall mean the distance between the front and rear lot lines, measured in the general direction of the side lot lines.

Lot, Interior shall mean a lot other than a corner lot.

Lot Line shall mean a boundary "of a Lot."

Lot of Record shall mean a lot or parcel that has been duly recorded and legally filed with the County Clerk's Office.

Lot, Through shall mean a lot having frontage on two (2) approximately parallel or converging streets.

Lot Width shall mean the distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district. For purposes of new building construction and in the case the lot width as measured above is substandard and in the case all other dimensional requirements of the lot as prescribed by this Chapter are satisfied, the lot width shall be measured at a length defined as parallel to and 15 feet from the face of the proposed structure as it is oriented to the front lot line.

Manufactured Home shall mean a structure transportable in one or more sections, which, in traveling mode, is eight feet or more in width or 40 feet or more in length or when erected on site is 320 or more square feet, and which is built in compliance with federal regulations or built prior to June 15, 1976, 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 the required utilities, and includes plumbing, heating, ventilating and electrical systems contained therein. For the purposes of this Chapter, the term "manufactured home" does not include a modular home. For the purposes of this Chapter, Manufactured Homes are also more specifically referred to as Singlewide and Doublewide Manufactured Homes.

Manufactured Home Park a parcel of land which has been designed and improved for placement of two (2) or more Manufactured Homes for non-transient use.

Manufacturing The processing, assembly, fabrication, handling or assembling of materials or substances into new or refurbished products and assembly of component parts.

Microbrewery A facility for the production and packaging of beer for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 75,000 barrels per year. The development may include other uses such as restaurants or bar. The term includes a farm brewery as defined under New York State Law.

Minor Mining Operations shall mean mining or removal of rock, sand, gravel, topsoil, or other geological or mineral deposit for off-site use or sale which does not meet or exceed the thresholds for regulation under the New York Mined Land Reclamation Law.

Mixed Use shall mean a combination of two (2) or more land uses on a tract of land or within a building or structure.

Modular Home shall mean a dwelling unit (as defined in this Chapter) constructed on site in accordance with New York State Building Code and municipal codes and bearing insignia of approval by the Secretary of State of New York State which is composed of components substantially assembled in a manufacturing plant and transported to a building site for final assembly on a permanent foundation.

Motel shall mean a multiple unit dwelling, intended primarily for motorists, not over two stories in height, in which the exit from each dwelling unit or sleeping room is directly to the exterior. The term includes, but is not limited to, the terms motor court, motor hotel, tourist court.

Multifamily Dwelling shall mean a dwelling or group of dwellings on one lot, containing separate living units for three or more families, having separate or joint entrances and including apartments, group homes, row houses, dormitory, club, or fraternity or sorority house

Museum An institution devoted to the procurement, care, study and display of objects of lasting interest or value. These objects are arranged for public observation and appreciation. Admission may or may not require a fee. Museums may have accessory uses that include demonstration studios, an indoor theater or stage, a gift store and café or restaurant. Any gift store or café shall be designed and constructed as a clearly incidental use to the premise.

Nonconforming Use, Structure or Lot shall refer to a use, structure or lot of record which, at the time of enactment of this Chapter or any amendment thereto, does not conform to the regulation of the district in which said use is located.

Nursery any place used as a garden for the open cultivation and growing of trees, shrubs and other plants, including the replanting of said plants grown at places other than the nursery.

Nursing/Convalescent Home shall mean a home or facility licensed by the State of New York for the aged or chronically or incurably ill person in which three or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Parking Space shall mean an off-street space available for the parking of one (1) motor vehicle and having an area of at least ten (10) feet in width by 18 feet in length. The required parking spaces for handicap access shall be 13 feet in width by 20 feet in length.

Pharmaceutical Manufacturing shall mean the production, preparation, propagation, conversion or processing of a drug or device, either directly or indirectly, by large volume extraction from substances of natural origin, or independently by means of chemical or biological synthesis, and includes any packaging or repackaging of a substance or labeling or relabeling of its container, and the promotion and marketing of such drugs and devices. “Manufacturing” also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacists to anyone other than a patient via a prescription, practitioners, or other persons. The process of drug manufacturing can be broken down into a series of unit operations such as milling, granulation, coating, tablet pressing and others. Pharmaceutical industries develop, produce and market drugs or pharmaceuticals licensed for use as medication. Pharmaceutical companies are allowed to deal in generic or brand medications and medical devices.

Playground An outdoor area provided for children to play on, especially at a school or public park. The facility may include site improvements such as landscaping, parking, signage, lighting, sewage, water, customary playground equipment, courses, trails, fields and courts for sports, ball fields, picnic tables, and trash bins.

Private Airport An airport that is not open to the public. These types of airports may have memberships that are sold to specific individuals or belong to private communities. These facilities are typically not open to anyone other than those who own it. Access to a private airport is not completely out of the question if the owner or operator gives pre-approval for usage. These types of airports sometimes require the filing of a Flight Plan with Air Traffic Control, as well as the local flight service, to gain access.

Private Club or Lodge shall mean a group of people organized for a common purpose to pursue common goals, interest or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and a constitution and bylaws.

Professional Offices shall mean a building designed for office use to conduct business, professional, or service activities, and that may include ancillary services for office workers such as an eatery, coffee shop, and newspaper or candy stand. The following examples are illustrative of professional services: certified public accounting, public accounting, consulting, engineering, architecture, planning, design professions, education, management, medical, legal counsel, therapy, counseling, dentistry, psychological services, and insurance.

Public Outdoor Performance Venue An outdoor public location or facility that can be used for concerts or musical performances such as a park bandstand. These locations or facilities may also include a small stage for theatrical performances.

Public Park A tract of land that is publicly accessible and designed for passive use, informal gatherings and leisure designed to serve the recreational needs of the residents of the community. It may also include a playground as defined herein and may have a few buildings that are maintained for recreational and ornamental purposes. Public restrooms are also a common feature in a public park.

Public Utility Structure or Use Utility services that are necessary to support development or sub areas of the Town and are within the immediate vicinity of those areas and that involve only minor structures. This includes sewer collectors and pump stations, transformers, relay and booster devices, wells and water facilities, waterlines, storm drainage facilities, switching boxes and other similar use utility structures.

Recreational Vehicles (RV) shall mean a mobile unit designed and built for camping, recreational travel or vacation use which is equipped to provide temporary shelter. The term includes camping trailers, truck campers, motor coaches, Travel Trailers, motor homes, pop-ups and similar units.

Recreational Vehicle Sales and Service a use or structure where recreational vehicles are displayed, sold, rented or leased, parts and supplies are sold and/or where repair and maintenance services are provided.

Research and Development Centers shall mean a structure or complex of structures designed or used primarily for research development functions related to industry and similar fields of endeavor.

Restaurant A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 80 percent of the gross sales receipts for food and beverages.

Restaurant, Fast-Food Restaurants where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or able to be taken to a table or counter to be consumed.

Retail Store shall mean an establishment 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.

Retail Store, Household These Establishments are retail operations that sell goods for furnishing or improving housing units and rendering services incidental to the sale of such goods. These establishments may include, but are not limited to, furniture store, home improvement center, electronic store, appliance store, and similar establishments.

Riding Stable and Academy An establishment where horses are boarded and cared for, and where instruction in riding, jumping, and showing is offered, and where horses may be hired for riding.

Sawmill shall mean a facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, planed, or otherwise processed to produce wood products, not including the processing of timber for private, on-premise, non-commercial activities.

Shopping Center shall mean two or more retail stores planned, constructed and managed as a unified entity with customer and employee parking provided on site, provision for goods deliveries separated from customer access, aesthetic considerations, and protection from the elements.

Sign Shall mean any permanent, temporary or portable device fixed to or painted or represented directly or indirectly upon a building, structure, inflatable device or land and which directs attention to an object, product, place, activity, event, person, institution, organization or business. Each display surface shall be considered a sign. Excluded from this definition are signs which are solely devoted to prohibiting, trespassing, hunting or fishing.

Sign, Directional shall mean any permanently constructed sign that includes information assisting the flow of pedestrian or vehicular traffic, such as enter, exit, and one-way. Official traffic or public safety signs shall not be considered Directional Signs subject to this Chapter.

Sign, Temporary shall mean any outdoor sign that is not permanently affixed or constructed, and where the thing signified is customarily effective or active for a limited time, is seasonal, or is likewise episodic. These typically refer to events such as, but not limited to, sales, openings, closings, construction, residential sales and rentals, product promotions, notices, elections, seasonal harvests, and community events.

Sign, Off-Premise A sign advertising a use, facility, service or product that is not located, sold or manufactured on the same premises as the sign. Billboard signs are off-premise signs and are sometimes referred to as outdoor advertising and the sign itself typically consists of preprinted panels of posters or bulletins.

Sign, On-Premise Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign is installed and maintained.

Single Family Dwelling shall mean a detached building constructed on a permanent foundation, designed for long-term human habitation exclusively by one family, having complete living facilities and constituting one dwelling unit. For the purposes of this Article, a single-family dwelling shall also mean conventionally built homes, doublewide manufactured homes and modular homes, but shall not mean singlewide manufactured homes.

Small Engine Repair The servicing and repairing of small, gas or diesel powered machinery. Small engine mechanics service machinery ranging from lawn mowers to chainsaws and other related equipment. Mechanics normally specialize in the repair and servicing of one (1) or two (2) types of machinery.

Small Wind Energy System Shall mean a wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics which has a rated capacity of not more than 100 kw and which is intended primarily to reduce onsite consumption of utility power.

Solar Collector A device, structure or part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

Solar Farm The use of land where a series of one (1) or more solar collectors are placed in an area on a parcel of land for the purpose of generating photovoltaic power and said series of one (1) or more solar collectors placed in an area on a parcel of land collectively has a nameplate generation capacity of at least 15 kw direct current (dc) or more when operating at maximum efficiency.

Storage Yard for Forest Products An area not on the same parcel where the products are initially harvested or gathered to which trees, firewood or other forest products are hauled and stored and does not involve any of the following: The operation of a sawmill or the operation of any other wood-manufacturing business. This use may also include the storage of cut trees and firewood and customers on the site to purchase firewood but no other retail sales.

Street shall mean a thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law.

Structure shall mean any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flagpoles, signs and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

Tanning Studio An establishment that utilizes artificial lighting to provide a tan to an individual's body. Tanning Studios exclude day spas and health clubs.

Tattoo Parlor an establishment that creates tattoos using inks or other substances. The use may include body piercing services.

Taxi Service A service that offers transportation in passenger automobiles and vans to persons including those who are handicapped in return for remuneration.

Technology Business Companies engaged in the advancement of information, communications, commercial computer services and related scientific advancements in the production of goods and provision of services.

Theater shall mean a fully-enclosed structure for the commercial showing of films or other types of live entertainment specifically not including adult entertainment as defined in this code.

Travel Trailer Park/Campground shall mean a commercial use providing space and facilities for camping and tent, camp trailers, travel trailers and recreational vehicles (RVs) for recreational uses or transient lodging.

Truck Stop a place for the storage and transfer of goods, wares or merchandise by truck transport that may include refueling, eating, and sleeping facilities.

Two-Family Dwelling/Duplex shall mean a building designed as a single structure, containing two separate living units, each of which is designed for occupancy as a separate permanent residence for one family.

Veterinary Hospital shall mean a place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Warehouse and Distribution Facilities shall mean uses and facilities characterized by either extensive warehousing of goods or merchandise, which are received and/or stored for delivery and is characterized by frequent heavy trucking activity and does not involve manufacturing, production, or agricultural activities.

Wireless Communications Tower Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto. (Wireless Communication Towers are governed by standards outlined in Article 7 of this law.)

Yard shall mean an at grade open space between a building and the lot lines.

Yard, Front shall mean an open, unoccupied space on the same lot with the building, between the front line of the building and street or highway line and extending the full width of the lot. (Front property line).

Yard, Rear shall mean an open, unoccupied space on the same lot with the building, situated between the building and the rear lot line and extending the full width of the lot.

Yard, Required shall mean a yard of specified dimensions or standards as required by this Chapter.

Yard, Side shall mean an open, unoccupied space on the same lot with the building, situated between the building and the side lot line and extending from the front yard to the rear yard.

ARTICLE 3 ZONING ADMINISTRATION AND ENFORCEMENT

- A. **Code Enforcement Officer (CEO).** This Zoning Law shall be administered by the CEO together with the Town Board, the Planning Board and Zoning Board of Appeals depending on the appropriate jurisdiction pursuant to this law. Compliance with this Chapter shall be enforced by the CEO.
- B. **General Provisions.** No person shall undertake any development or commence any land use activity without first applying for, and obtaining, a zoning permit from the CEO unless otherwise exempt pursuant to this Zoning Law and/or the Town of Perth Subdivision Regulations. A zoning permit will be issued only when the CEO has determined that all requirements of this Zoning Law and all other applicable laws and regulations have been satisfied.
- C. **Meeting with CEO.** Any person intending to engage in an activity that may be subject to this Law and/or the Town of Perth Subdivision Regulations should meet with the CEO as early as possible to determine which, if any, permits or approvals may be required and what review procedures, if any, apply.
1. **Filing Application for Zoning Permit.** A person desiring a zoning permit shall file an application for a zoning permit with the CEO, together with the appropriate fee. The application shall be submitted on forms provided for such purpose by the CEO, and shall include 2 copies of a plot plan drawn to approximate scale showing the actual dimensions of the land to be built on or otherwise used, the size and location of all buildings or other structures or other uses to be built or undertaken and such other information as may be necessary in the evaluation of the application and the administration of this Law. Following personal receipt of an application and its signing by the CEO, the CEO shall notify the applicant within 10 working days of any additional information required for completion of the application. Applications requiring additional information shall be deemed incomplete and shall not be considered a pending application until fully complete. If no notice for additional information is given, then the application shall be deemed complete as filed. When all additional information is received, the CEO shall acknowledge the same in writing. If directed by the Town Board, the CEO shall provide a report or copies of completed applications received to the Town Board, the Planning Board, the Zoning Board of Appeals and/or the Town Assessor on a periodic basis.
 2. **Determination.**

The CEO will advise the applicant of the requirements for the approvals needed, and shall provide information to the applicant when requested by the applicant in the preparation of the required application. When the required approvals have been obtained, and all other legal and regulatory requirements have been satisfied, the CEO shall issue a zoning permit. Not later than 10 working days after receiving a completed application, the CEO shall mail or deliver to the applicant the determination that either:

 - a. The proposed project or activity complies with the requirements of this Law and all other applicable local laws and regulations and requires no other approvals, and accordingly a zoning permit is issued; or

- b. The proposed project or activity is inconsistent with one or more specified requirements of this Law or other applicable local law or regulation, and a zoning permit is denied; or
- c. The proposed project requires one or more specified special approvals before a zoning permit can be granted. The proposed project may, for example, be for a use allowable by Special Use Permit and/or Site Plan approval, requiring approval of a Special Use Permit by the Planning Board and/or approval of a Site Plan by the Planning Board.
- d. Note that any decision of the CEO made pursuant to this Article may be appealed to the Zoning Board of Appeals for an interpretation, or a variance may be sought from the Zoning Board of Appeals pursuant to this Law.

3. Issuance and Posting.

All zoning permits shall be issued in duplicate and 1 copy must be conspicuously posted (protected from the weather, if necessary) by the applicant and on the premises affected at all times while construction or development is ongoing. In issuing a zoning permit, the CEO shall sign, date, and return to the applicant 1 copy of the approved plans bearing the notation "Approved." No person shall perform any construction or otherwise undertake a project requiring a permit unless a zoning permit for such project is displayed as set forth above, nor shall any person perform such activities after notification of the revocation of a zoning permit.

4. Revocation.

If the CEO determines that an application or accompanying plans are in any material respect false or misleading, or that work being done upon the premises differs materially from what is allowed by the zoning permit, the CEO may forthwith revoke the zoning permit. The permittee shall thereupon cease the use, activity, or construction, and surrender the zoning permit to the CEO.

5. Lapse and Renewal.

A zoning permit shall lapse one year following the date it was granted if the project has not been commenced or the use has not been commenced. The CEO may renew any zoning permit for a period terminating not later than one year from the date it would have originally lapsed, provided that the facts upon which the zoning permit was granted have not substantially changed.

6. Compliance With Building Code.

The issuance of a zoning permit shall not be deemed proof of compliance with the New York State Uniform Fire Prevention and Building Code. Once a zoning permit is issued, a building permit may be issued pursuant to the Building Code if in compliance with the requirements of the Building Code. A building permit may be applied for simultaneously with a zoning permit application but the zoning permit application must be issued first in order for any building permit to be effective.

7. Site Inspection.

The submission of an application for a zoning permit, Site Plan, Special Use Permit or variance, shall constitute consent to the CEO and to members or designates of the boards with authority to grant the required approvals or variance to conduct such inspections of the site as such persons deem necessary and appropriate for the purposes of this Law.

- D. **Certificate of Compliance.** No use for which a zoning permit was granted shall be occupied or maintained except pursuant to a certificate of compliance issued by the CEO. The CEO, within 10 working days after receipt of request for inspection of a project or operation of a use for which a zoning permit has been issued, shall inspect and issue a certificate of compliance if the project has been completed, or the use is being operated in compliance with all terms of the zoning permit and with all applicable provisions of this local law and other laws and regulations including any approvals issued by the Zoning Board of Appeals and/or Planning Board, if applicable. Such certificate shall constitute a permit to occupy and/or conduct the use and, for non-residential uses, must be conspicuously posted on the premises. If the project involves the construction of a building or structure, a building permit and certificate of occupancy must also be issued by the CEO pursuant to the Building Code before the building or structure can be occupied.
- E. **Violations.** Whenever a violation of this Chapter occurs, the CEO may enforce compliance to remedy the violation or any person may file a complaint requesting enforcement action by the CEO. All such complaints shall be made to the CEO in writing with contact information. The CEO shall then properly record such complaint and thereafter investigate the allegations of such complaint. Said investigation shall be conducted at his discretion, contingent upon case loads and other official duties of the CEO. If a violation of this Law is found, the CEO shall report his findings on such violation to the Town Board. The CEO shall have authority to serve a notice of violation, an order to cease or stop work or order to abate or remove a violation upon any person owning, leasing, controlling or managing any building, structure, or land. The undertaking of a land use or development for which a zoning permit is required, or the construction of any improvement in a manner that materially deviates from an approved plan and the violation of any condition imposed by a zoning permit, certificate of compliance, Special Use Permit, Site Plan, variance, or subdivision approval shall constitute a violation of this Law.
- F. **Penalty.** Any person owning, leasing, managing or otherwise controlling any building, structure, or land where a violation of this Law occurs and any person who commits or assists in the commission of any violation of this Law who, after being served with an order to cease or remove such violation, fails to comply with such order within 10 days after such service, shall be guilty of an offense and subject to a fine as authorized in Section 268 of the Town Law. The CEO has the authority under this Law and the Town Law to prosecute any such violations in the Town of Perth Justice Court.

1. Continuous Violations.

In addition to the penalties defined in Subsection F above, any person who violates any provision of this local law shall, for every such violation, forfeit and pay a civil penalty pursuant to the current schedule of fees on file with the CEO and with the Town Clerk. When a violation of any of the provisions is continuous, each week thereof shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty. The CEO has the authority under this Law to commence a civil action in order to obtain a civil penalty under this provision in the Town of Perth Justice Court upon the notice to, and the consent of, the Town Board. To the

extent that this provision is inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, section 268, the Town Board of the Town of Perth hereby declares its intent to change or supersede said section of the Town Law, pursuant to its home rule powers under the Municipal Home Rule Law, Article 2, Section 10, et. seq. of the Consolidated Laws of the State of New York.

2. **Person other than Individual.**

For the purposes of this Section, where a "person" is an entity other than an individual, the principal executive officer or partner or agent or manager of such entity may be considered to be such person.

3. **Application of Penalties.**

The methods of enforcement as set forth in paragraphs 1 and 2 above, as well as subsection G below, are not exclusive and may be utilized together, alternatively, repeatedly or in any combination thereof until compliance is obtained and the violation is abated. Abatement of the violation does not preclude the exaction of a penalty, fine or collection of attorney's fees and costs and such other relief a court may order.

G. **Injunctive Relief.** In case of any violation or threatened violation of any of the provisions of this Law, or conditions imposed in any zoning permit or certificate of compliance, the Town may, by resolution of the Town Board, institute an action for injunctive relief to prevent, restrain, correct or abate such violation. As part of such action, the Town may request the Court for an order that requires the violator to reimburse the Town for the costs, including the attorney fees, incurred with respect to the action for injunctive relief.

H. **Misrepresentation.** Any zoning permit or other approval granted under this Law shall be void if it is based upon or is granted in reliance upon any material misrepresentation or failure to make a material fact or circumstance known.

I. **Fees.** The Town Board, by resolution, shall establish and amend (from time to time) a schedule of fees for the applications and permits required or contemplated by this Law. The current schedule shall be on file with the CEO and with the Town Clerk. Such fees shall be payable to the Town Clerk at the time of application or, as appropriate, at the time of issuance of a permit. In certain instances where the reviewing Board deems the application, or any aspect thereof, requires a consultant to assist the reviewing Board, said Board may require as part of the fee, a deposit in an amount sufficient to reimburse the Town for reasonably estimated costs of a consultant to be retained by the reviewing Board in order to assist the Board in reviewing the application. Said amount shall be based on the specific fee schedule of the particular consultant or consultants retained as well as the scope of services to be provided by such consultant(s).

1. The Town shall hold such deposit in escrow for the sole purpose of paying the costs and fees of the consultant(s) retained for review of the application. The consultant retained shall provide the Town with detailed invoices showing the services rendered for the time-period billed and the Town shall provide the applicant with an opportunity to review said invoices prior to payment. Additional deposits may be required as the review process continues. Any deposit amounts that remain at the end of the process shall be returned to the applicant.

- J. **Quarterly Administrative Reports.** The CEO shall provide a written quarterly report to both the Town Board and the Town Planning Board summarizing the number of Zoning Permits that have been issued during the previous quarter. The quarterly report must also include a listing of the Building Permits that have been issued during the previous quarter for new homes. The quarterly reports shall be forwarded to the Town Board and the Town Planning Board by the following dates:

April 15 (January 1 – March 31)

July 15 (April 1 – June 30)

October 15 (July 1 – September 30)

January 15 (October 1 – December 31)

ARTICLE 4 – USE DISTRICTS

A. The Town of Perth is hereby divided into the following Zoning Districts:

1. A-R Agricultural Residential District:

It is the intent of the Town that the A-R District:

- a. Maintain, encourage and enhance the agricultural endeavors practiced in the rural areas of the Town.
- b. Protect, enhance and encourage the preservation of open space, scenic views, wildlife habitat and other natural resources.
- c. Provide the opportunity for residential development on properly serviced sites while maintaining the rural atmosphere and values of the community.
- d. Provide for and encourage a mixture of housing types and opportunities throughout the rural areas of the Town.
- e. Allow for the development of small commercial enterprises that are suitable for location among agricultural and residential land uses throughout the rural areas of the community.

2. C-R Commercial-Residential District:

It is the intent of the Town that the C-R Commercial-Residential District:

- a. Encourage commercial investment and development.
- b. Provide areas for general retail and commercial development where appropriate services and transportation access are available.
- c. Assure adequate services, parking, roadways, drainage and other services for commercial endeavors.
- d. Allow the development of housing opportunities appropriate for location within and adjacent to commercially-developed areas.
- e. Allow the continuation of agricultural land uses consistent with adjacent commercial development.

3. PI Public Institutional District:

It is the intent of the Town that the PI District:

- a. Support the development and operation of municipal and not-for-profit facilities and institutions.
- b. Encourage the construction and expansion of these facilities in a manner that mitigates any adverse impacts on neighboring uses and allows other public or private enterprises to occur in order to take advantage of the proximity of these areas to major traffic corridors and commercial areas.

4. BTZ Business Technology Zone:

See Article 5 for regulations governing properties in the BTZ.

B. Allowable Uses:

All allowable uses are listed in Schedule A Town of Perth Zoning Use Table. Uses not specifically listed on the Allowable Uses Table are prohibited.

C. Zoning Map:

The locations and boundaries of the Zoning Districts hereby established are shown on a map entitled “Zoning District Map Town of Perth.” The Zoning District Map and all notations, references and other information shown thereon, are hereby declared to be a part of this Chapter. The Town shall delineate on the Zoning Map all amendments to the District boundaries which are authorized by law immediately upon the effective date of such law indicating the area, change and date of said amendment.

D. Interpretation of District Boundaries:

Where uncertainty exists as to the location of any boundaries shown on the Zoning District Map, the following rules shall apply:

1. District boundary lines are intended to follow centerlines of a street, alley, right-of-way, watercourse or lot line or be parallel or perpendicular thereto unless such boundary lines are affixed by dimension as shown on the Zoning Map.
2. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
3. Where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the distance or measuring scale appearing thereon.
4. If after the application of the foregoing rules uncertainty exists as to the exact location of a district boundary, the Town CEO shall determine and fix the location of said line.

ARTICLE 5
BUSINESS AND TECHNOLOGY ZONE (BTZ)

A. Purpose:

1. The purpose of the Business and Technology Zone (BTZ) will be to facilitate the redevelopment of the former Tryon Campus along County Highway 107 in the Town of Perth by:
 - a. Creating shovel-ready sites to encourage the development of technology facilities, research and development facilities, light industrial operations, typical office park development, assembly and manufacturing, medical facilities, educational facilities and accessory businesses.
 - b. Reusing and/or redeveloping the existing buildings on the former Tryon Campus.

B. Location and Boundaries:

1. The location and boundaries of the BTZ are herein declared and delineated on the official Zoning Map, as attached hereto.

C. Components:

1. The BTZ includes three (3) separate components:
 - a. The first component will be the 300+/- acres and existing buildings that would comprise the formal Technology Park and Incubator Center. This area will be developed into shovel-ready sites for new businesses. The existing buildings will be used as incubator space for small companies and for accessory businesses.
 - b. The second component will be the remaining 215+/- acres that can be used as follows:
 1. Multi-Use development on the north and west ends of the former Tryon Campus on approximately 100-150 acres.
 2. Highway Business development along the south side of County Highway 107 on approximately 15+/- acres.
 - c. The third component will be the preservation of Open Space on those lands not developed.

D. Existing Buildings:

1. One potential scenario for the Tryon Technology Park and Incubator Center development will be the use of existing buildings on the former Tryon Campus. These buildings may be used for any use identified in Section E of this Article as well as storage space. The buildings may also be used as incubator space for small, growing companies.
2. There is likely to be turnover in the occupancy and use of these existing buildings as companies grow and look to occupy larger spaces or develop their own facilities. The ability to use these existing buildings will depend upon providing regulatory flexibility that will allow a variety of compatible uses.

3. Reuse of existing buildings in the Tryon Technology Park and Incubator Center shall not be subject to the Site Plan Review process outlined in Article 10 of this Local Law. The Town of Perth Planning Board shall be notified each month during its regularly-scheduled meeting of any impending occupancy or change in occupancy of any existing building within the Tryon Technology Park and Incubator Center.

E. Permitted Uses:

New construction and development within the BTZ, not involving a building in existence at the time of adoption of this Local Law, shall be subject to the provisions of Article 10 of this Local Law. There are no uses permitted by right within the BTZ. All uses listed below shall be subject to a site plan review by the Planning Board in accordance with Article 10 of this Local Law:

1. High tech information, communication, commercial computer services and related businesses.
2. Research and development of materials, methods or products, including engineering and laboratory uses, renewable energy businesses, nano sciences and commercial and physical research, and related uses, including pharmaceutical manufacturing.
3. Business and professional offices including single or multi-unit office buildings.
4. Manufacturing, processing, assembly, fabrication and related facilities.
5. Warehouse and distribution facilities as a component of a manufacturing, processing, assembly, fabrication and related facilities.
6. Fitness and Recreational Sports businesses.
7. Educational facilities.
8. Retail, commercial and service businesses such as:
 - Banks/credit unions
 - Restaurants and sandwich shops
 - Daycare facilities
9. Hotel/Conference Center/Motel
10. Housing
11. Medical Offices and Health Care Facilities.
12. Food and Beverage Industry Businesses

F. Development Standards:

All new development in the BTZ shall be completed in accordance with the Development Standards outlined below:

1. Land Coverage, Setbacks and Building Ratio:
 - a. There is no minimum lot size in the BTZ Zone.
 - b. The maximum percent of the lot occupied by buildings shall not exceed 50% of the lot.

- c. The minimum lot width, depth and building setbacks for a lot shall be established by the Town of Perth Planning Board during the site plan review process.
- d. No parking, paving, outdoor storage or truck maneuvering areas shall be allowed to encroach upon the setback area as established by the Planning Board for an individual lot. However, driveways and access routes onto the lot must be paved and shall not be considered an encroachment on the setback areas.

2. Building Design:

- a. The maximum height of a building in the BTZ shall be 40'.
- b. The architecture and quality of materials used for buildings shall be reviewed and approved by the Town of Perth Planning Board. The design and siting of buildings shall compliment the natural terrain and any significant vegetation on the site. All exterior building walls and structures shall be constructed with attractive, durable materials such as textured concrete, masonry, stone, brick, wood, stucco, glass or steel. Exterior building walls shall have a positive visual affect when viewed from adjacent areas.
- c. Roof vents, chimneys, fans and other rooftop mechanical units must be screened from ground view by parapet walls or other design features architecturally integrated with the design of the building.
- d. Any ground-mounted mechanical equipment, such as heating, ventilation and air conditioning (HVAC) units, utility meters, transformers, propane tanks, etc. shall be located to the side or rear of a building and be adequately screened.
- e. No material storage, garbage containers or refuse shall be allowed nearer than 25' to an adjacent property line. All waste storage and collection areas, refuse and recycling receptacles and similar uses shall be screened on three (3) sides with a minimum 6' high opaque fence or wall or by dense landscaped plantings approved by the Town Planning Board.

3. Off-street Parking and Loading Facilities:

- a. Off-street parking and, whenever necessary, off-street loading areas shall be provided for all uses in the BTZ. No on-street parking or loading facilities shall be permitted. All parking and loading areas must be paved.
- b. Parking spaces must be, at a minimum, 9' in width x 18' in length and there must be at least 25' of rear maneuvering space between rows of parking.
- c. To ensure adequate parking for uses within the BTZ, the minimum required number of spaces for a particular use shall be as follows:

Parking Standards

- High-tech, information, communication, Commercial computer services and related businesses : 4 spaces per 1,000 sq. ft. of floor
- R&D, Engineering and Laboratory Uses : 1 space for each 1,000 sq. ft. of gross floor area
- Business and Professional Offices : 1 space for each 1,000 sq. ft. of gross floor area plus 1 space for each employee.
- Medical Offices : 1 space for each 500 sq. ft. of gross floor area plus 1 space for each employee or 1 space for each 200 sq. ft. of gross floor area, whichever is greater
- Health Care Facility : 1 space for every 2 beds plus 1 per doctor plus 1 per employee on the largest shift
- Manufacturing, Processing, Assembly and Fabrication Facilities : 1 space per 1,000 sq. ft. of gross floor area plus 1 space for each employee working during the largest shift
- Warehouse and Distribution Facilities : 1 space per 1,000 sq. ft. of gross floor area plus 1 space for every 2 employees
- Fitness and Recreational Sports : 10 spaces plus 1 space for each 200 sq. ft. of floor area in excess of 1,000 sq. ft.
- Educational Facilities : 1 space for each student based on the design capacity of the building plus 1 space for each teacher or other employee
- Banks/Credit Union : 1 space for each 200 sq. ft. of gross floor area plus 2 spaces for each teller station within the facility

- Food and Beverage Industry Businesses : 1 space per 1,000 sq. ft. of gross floor area plus 1 space for each employee working during the largest shift
- Restaurants/Sandwich Shops : 1 space for each 100 sq. ft. of floor area or 1 space for every 4 seats in the facility, whichever is greater
- Daycare Facility : 1 space for each staff member plus 1 per 5 students
- Hotel, Conference Center or Motel : 1 space per guest room plus 1 space for each 400 sq. ft. of public meeting area and restaurant space or 1 space for each 200 sq. ft. of gross floor area, whichever is greater
- Housing : 1.5 spaces per dwelling unit

The Planning Board may vary these off-street parking and loading standards during the site plan review process if necessary to address the intent of this Article. On these occasions, the Planning Board must take into consideration the size of the building, the number of expected employees, the number of expected visitors and any future expansion possibilities.

- d. All loading docks shall meet the following standards:
 - Minimum width of 14'
 - Minimum depth of 52'
 - A clear overhead of 14'
 - Minimum of 35' of inside turning radius
 - Concrete pads for trailers.
- e. All loading docks and truck maneuvering areas shall be screened from public streets and adjacent properties by the use of berms, landscaping, fencing or masonry walls.

4. Grading and Landscaping:

- a. The maximum grade for an access driveway leading from a public road or connecting parking areas on a site shall be 8%.
- b. Parking areas shall not exceed a maximum grade of 4%.

- c. Any seeded or landscaped areas shall not exceed a maximum slope of 3:1.
- d. The quantity, type and location of all landscaped plantings and structures shall be approved by the Town Planning Board.
- e. Any portion of a lot not otherwise covered with natural cover, buildings, parking areas, or a stormwater retention system shall be graded, drained and landscaped with trees, shrubs and planted groundcover.
- f. The use of earth sculpting or berms shall be encouraged as long as it is designed in an area with enough size so as to avoid erosion, drainage or maintenance problems.

5. Signage:

- a. No billboards or advertising signs, other than those identifying businesses that are located on a site or products that are being made on a particular site shall be permitted. The location, size and construction of all signs shall be approved by the Town of Perth Planning Board.
- b. Signage identifying the Tryon Technology Park and Incubator Center shall be allowed within a public right-of-way or on private property. Multi-tenant signage identifying tenants of the Technology Park and Incubator Center shall also be allowed on a public ROW or private property.
- c. Only one (1) sign may be erected on an individual lot. However, multi-tenant signs will be allowed on a lot to identify the firm or firms that are located within a building or the chief products that are being produced by each business. This type of signage can be used to identify the firm or its chief product. The sign can be located in the front yard or attached to the building. This sign can be illuminated but must be non-flashing, non-blinking and non-moving.
- d. Management company signs are permitted in the BTZ in order to advertise lots or building space that is available for purchase or lease.

6. Lighting/Utilities:

- a. Only shaded light sources shall be allowed and shall be used to illuminate signs, façades, buildings, parking and loading areas.
- b. Lighting shall be arranged to illuminate glare from roadways and streets and shall be directed away from properties lying outside of the BTZ.

G. Town of Perth Subdivision Regulations:

- 1. Lands zoned as Business and Technology Zone (BTZ) shall not be subject to the requirements of the Town of Perth Subdivision Regulations.

ARTICLE 6 – MINIMUM AREA AND DIMENSIONAL REQUIREMENTS

A. Schedule of Regulations:

The minimum area and dimensional requirements applicable for properties in each Zoning District is set forth below:

Town of Perth Area/Dimensional Requirements

	A-R	C	PI	BTZ
Area and Height Regulations				
Minimum Lot Size (sq. ft.) ²	1.0 acre	1.0 acre	1.0 acre	See Article 5
Minimum Lot Size with Public Sewer (sq. ft.)	20,000	20,000	15,000	See Article 5
Minimum Lot Width (ft.)	150	100	50	See Article 5
Minimum Lot Width with Public Sewer (ft.)	80	100	50	See Article 5
Maximum Percentage of Lot Occupied by Principal Building	.25	.50	.50	See Article 5
Maximum Height of Building (feet) ²	35	35	35	See Article 5
Minimum Yard Distances (feet):				
Front Yard	30	30	30	See Article 5
Side Yard	15	20	30	See Article 5
Both Side Yards	75	40	75	See Article 5
Rear Yard	30	50	50	See Article 5

B. Additional Area Regulations:

1. Reduction of Lot Area:

No lot area shall be reduced below the district requirements of this law.

2. Corner Lot:

All corner lots shall provide a front and rear yard which is designated by the owner in the application for a building permit. A side yard along a street shall be a minimum of 25 feet. Nothing in this regulation shall be so interpreted as to reduce the building width of a corner lot and of record at the time of the passage of this chapter to less than 24 feet.

3. Visibility at Street Corners:

On a corner lot in any district where a front yard is required, no fence, wall, hedge, sign or other structure or planting more than 3 feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines.

4. Transition Yard Requirements:

Where the side or rear yard of a lot abuts a side or rear yard of a lot in a district more restrictive by reason of setbacks, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more restricted district.

5. Projecting Architectural Features, Terraces, Porches, Fire Escapes:

- a. Windowsills, belt courses, cornices, eaves and other customary architectural features, shall not project more than 2 feet into any required yard.
- b. A deck not to exceed 30 inches above grade or paved terrace that are unroofed and without walls or other enclosures not to exceed 6 feet in height shall not be considered as part of a building in the determination of yard sizes or lot coverage. Such deck or terrace is restricted to not less than 10 feet from side or rear lot line.
- c. In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches open at the side but roofed shall be considered a part of the building.
- d. An open stairway may extend into any required yard not more than 7 feet provided that such open stairway shall not be closer than 6 feet at any point to any lot line.
- e. Unenclosed entrance steps, stairways or ramps providing access to the first story of a building may extend into any required yard a distance not to exceed 8 feet and shall not be closer than 6 feet at any point on any side lot line.
- f. Pools. A pool shall not be considered an accessory structure, but shall only be placed in side or rear lots. A pool shall maintain a 10 foot setback from side and rear property lines and in the case of a corner lot, shall be placed no closer to the side property line than the principle building would be allowed in that particular district. A pool shall also maintain a 10 foot setback from any primary or accessory building.

6. Walls, Fences and Hedges:

The yard requirements of this chapter shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by town law in any zoning district under the following provisions.

- a. Location. A fence, wall or hedge shall be no closer to any front lot line than 6 inches and shall comply with visibility at street corners as provided in this Article. No hedge shall be allowed to overhang the lot line.
- b. Orientation. The finished side of new and replacement fences must face surrounding properties. All supporting posts and cross-members must face the lot on which a new or replacement fence is located.
- c. Height.
 - 1) Fences in front yards may be up to 4 feet in height. Side and rear yards fences may be up to 6 feet in height.
 - 2) Fences on Corner Lots.
 - i. Fences closer than 10 feet to a side-street lot line may be up to four feet in height.

- ii. Fences 10 feet or more from a side-street lot line may be up to 6 feet in height.

7. Height of Structures:

- a. Principal Buildings. The maximum height of the principal building shall not exceed 35 feet or 2 ½ stories excluding church spires, belfries, cupolas, or domes not used for human habitations, chimneys, ventilators, skylights, parapet walls, cornices, solar energy systems, green roof systems or necessary mechanical appurtenances usually located on the roof level.
- b. Agricultural Buildings. Silos and agricultural buildings are exempt from the height limitations provided that such buildings above 35 feet in height are at least twice the distance from any residence as the height of the building.
- c. Accessory Structures. The maximum height shall not exceed 15 feet except for garages, which shall not exceed 26 feet.

ARTICLE 7 - SUPPLEMENTARY REGULATIONS

A. Accessory Buildings:

1. **Number of Accessory Buildings.** There shall be not more than 3 accessory buildings on each lot used for residential purposes.
2. **Height.** Maximum height of accessory building shall be not more than 15 feet, unless otherwise prescribed or allowed by this Chapter.
3. **Location of detached accessory buildings.** Accessory buildings which are not attached to a principal building may be erected within the rear yard in accordance with the following requirements unless otherwise allowed in this Chapter:
 - a. For garage, tool shed, or similar storage, such structures shall be located no closer than 6 feet from side or rear line, except when abutting a road or alley, then the setback shall be 12 feet.
 - b. For poultry house, rabbit, hutch, kennel or other type of shelters for domestic animals exclusive of horses, ponies and livestock, such structures shall be located no closer than 50 feet from any lot line.
 - c. For stables and shelter of horses, ponies, and other livestock, such structures shall be located no closer than 100 feet from any lot line.
 - d. Detached accessory structures located within side yards on the street side of a corner lot shall not exceed such setbacks established for the principal building.
 - e. No detached building shall be closer than 10 feet to the principal building or another accessory building.
4. **Attached accessory buildings.** An accessory building attached to the principal building in a residential district shall comply with the requirements of this chapter applicable to the principal building.

B. Manufactured Homes Outside of Manufactured Home Parks:

1. **Prohibition of manufactured homes.**

No manufactured home shall be parked or allowed to remain upon any street, highway or other public place, except that emergency stopping or parking, when caused by mechanical failure, shall be permitted upon the shoulder of any street or highway for a period of not more than 72 hours, subject, however, to any prohibition or limitation imposed by other regulations or laws.
2. **Manufactured Home Installation.** Manufactured Homes must be installed in accordance with the Residential Code of New York State.

3. **Manufactured home requirements.**

- a. The manufactured home is to be provided with potable water and a sewage disposal system designed according to New York State Department of Health (NYSDOH) Regulations and any other regulating agencies. (See CEO for details).
- b. No occupied manufactured home outside a duly permitted manufactured home park shall be parked or placed nearer to a lot line than stated in the yard requirements as established for each zoning district.
- c. Not more than 1 occupied manufactured home shall be placed or parked on any parcel of land, which is located outside a licensed manufactured home park.
- d. No entryway or other addition may be constructed without a building permit.
- e. Manufactured homes heated with oil and/or other fuel supplies shall have a conventional tank erected and enclosed in a sightly manner. Barrels are not permitted.

4. **Existing manufactured homes.** A manufactured home lawfully in existence prior to the enactment of this Article but not located in a manufactured home park or zoning district that permits manufactured homes may continue to be used as living quarters provided it meets the requirements of this chapter. The owner of record for the parcel on which the mobile home is situated shall adhere to all applicable state and local requirements for sanitation, sewerage, tidiness, and public health, safety, and welfare as they pertain to the residential occupancy of permitted manufactured homes not located in a manufactured home park.

C. **Manufactured Home Parks and Travel Trailer Parks/Campgrounds:**

1. **Purpose.** The purpose of this Section shall be to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of Perth and its inhabitants, by establishing specific requirements and regulations governing the occupancy and maintenance of manufactured homes, manufactured home parks and travel trailer park/campgrounds.
2. **Permit Required.** No person, partnership, association or corporation being the owner or occupant of any land within the Town of Perth shall use or allow the use of such land for a manufactured home park or travel trailer park/campground unless a permit has been obtained as herein provided.
3. **Issuance of Permit.** The CEO of the Town of Perth shall issue a permit, to be effective from the day of issuance. This permit shall not be issued by the CEO until the CEO has received:
 - a. A written application from the applicant.
 - b. The required fee as herein provided.
 - c. Approval of the application by the New York State Department of Health District Office.
 - d. Approval of the Manufactured Home Park Plans by the Planning Board.

4. **Non-Transferable.** A permit issued pursuant to this Section shall not be transferable or assignable.
5. **Supplemental Permit.** Any person holding a permit for manufactured home park or travel trailer park/campground and desiring to add additional lots to such park or campground shall file an application for a supplemental permit. The application for such supplemental permit shall be accompanied by 10 complete sets of plans and specifications as required by the Application Data Section, hereafter. The application for a supplemental permit shall be filed and handled according to the procedure established in this section. When approved and upon receipt of the required fee, the CEO of the Town shall issue a supplemental permit, which shall be effective from the date of issuance.
6. **Permit Fees.** The annual fee for a Manufactured Home Park Permit shall be set by the Town Board.
7. **Enforcement.** The CEO of the Town of Perth shall enforce all of the provisions of this Section. Such CEO shall have the right, at all times, to enter and inspect any manufactured home park, travel trailer park/campground and other premises used for the parking or placement of manufactured homes or travel trailers.
8. **Application Procedure.** An applicant for a permit issued pursuant to this Section shall adhere to the procedures enumerated hereunder.
 - a. **Application Submittal.** An application for a Mobile Home Park or Trailer Camp Permit shall be submitted to the Fulton County Planning Department at least 7 days in advance of a regularly scheduled Planning Board meeting. Each application for a mobile home park or trailer camp shall be made in writing and signed by the applicant. Attached to said application shall be 10 copies of a proposed mobile home park or trailer camp site plan which has been prepared by a licensed engineer or surveyor.
 - b. **Review by Planning Board.** The Planning Board shall review the general arrangement of the Manufactured Home Park or travel trailer park/campground. This shall include a review of: location and width of streets; the location, size and arrangement of lots; the location of other structures within the park or camp; the location of entrances and exits; and the location, type and extent of landscaping and screening materials. If the applicant fails to submit sufficient information to the Planning Board, said application shall be deemed incomplete and returned to the applicant. Once an application is determined to be complete, the Planning Board shall set a date for a public hearing.
 - c. **Public Hearing/Decision.** The Planning Board shall fix a time within 62 days from the day the Planning Board determines an application for a Manufactured Home Park or Travel Trailer Park/Campground Permit to be complete, for a public hearing on the application. The time in which a public hearing shall be held may be lengthened only upon consent of the Applicant and Planning Board. At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice, by first class mail, thereof to all adjoining property owners and to any other owners of property

located within 200 feet from the parcel for which the site plan is proposed. The Planning Board may notify other owners of other parcels as it deems appropriate. Within 62 days after such public hearing the Planning Board shall approve, approve with modifications or disapprove the application for a Mobile Home Park or Trailer Camp Permit. Failure of the Planning Board to act on such matter within 62 days shall constitute approval of the application.

9. Application Data The following information shall be provided by the applicant for permits issued pursuant to this Section:

- a. The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.
- b. The location and description of the land that is proposed to be used as a Manufactured Home Park or Travel Trailer Park/Campground.
- c. The number of lots to be provided in such park or campground.
- d. Topographic contours at two-foot intervals.
- e. Location of watercourses, NYS DEC classified streams, marshes, legal wetlands and areas subject to flooding.
- f. Wooded areas.
- g. A location map which shows all land within 300 feet of the proposed park or campground and all structures on the land which abuts the proposed park or campground.
- h. The location, name and widths of all adjacent streets.
- i. The location of all water lines and utilities within and adjacent to the proposed site.
- j. Method for securing potable water and providing sewage disposal.
- k. The location and widths of all entrances, exits, streets and walkways.
- l. The location, size and arrangement of each lot within the park or campground.
- m. The method and plan for electric lighting.
- n. The location and plan of all proposed structures and improvements.
- o. Any proposed grading and plans for landscaping.
- p. Any proposed stormwater drainage.
- q. Any proposed utilities.
- r. Any public improvements proposed by the Town in or adjoining the proposed park or campground.
- s. Existing zoning.
- t. Any proposed signage

10. Requirements for Manufactured Home Parks. The following standards and requirements shall be adhered to or secured by permittee:

a. Site.

- 1) The park or campground shall be located in areas where grades and soil conditions are suitable for use as Mobile Home Sites.

- 2) The park or campground shall be located on a well-drained site which is properly graded to ensure rapid drainage and be free at all times from stagnant pools of water.
- 3) The park or campground shall be free from heavy or dense growth of brush and woods.
- 4) The park or campground shall be at least 2 acres in size and shall have 100 feet of frontage on a public road.

b. Manufactured Home Lot.

- 1) Each Manufactured Home Park shall be marked off into manufactured home lots.
- 2) The total number of Manufactured Home Lots in a Manufactured Home Park shall not exceed 6 per gross acre.
- 3) Each manufactured home lot shall have a total area of not less than 5,000 square feet with a minimum dimension of 50 feet.

c. Manufactured Homes.

- 1) No Manufactured Home shall be parked or otherwise located nearer than a distance of:
 - a) At least 25 feet from an adjacent Manufactured Home in any direction.
 - b) At least 30 feet from an adjacent property line.
 - c) At least 100 feet from the right-of-way line of a public street or highway, unless by Special Use Permit.
 - d) At least 10 feet from the nearest edge of any roadway located within the park.

d. Manufactured Home Stand.

- 1) Each Manufactured Home Lot shall have a Manufactured Home Stand which will provide for the practical placement on and removal from the lot of both the Manufactured Home and its appurtenant structures and the retention of the home on the lot in a stable condition.
- 2) The stand shall be of sufficient size to fit the dimensions of the anticipated Manufactured Homes and their appurtenant structures or appendages.
- 3) The stand shall be constructed of an appropriate nonporous material which is durable and adequate for the support of the maximum anticipated loads. Minimum accepted standard would be a 6" concrete monolithic pad reinforced per American Concrete Institute Standards.
- 4) The stand shall be suitably graded to permit proper surface drainage.
- 5) All manufactured homes to be provided with fill skirting or equal per National Manufacturers Home Standards.

e. Accessibility.

- 1) Each Manufactured Home Park shall be easily accessible from an existing public highway or street.

- 2) Where a Manufactured Home Park has more than 16 Manufactured Homes, 2 points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed 4. Such entrances and exits shall be designed and strategically located for safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street.
 - a) All entrances and exits shall be essentially at right angles to the existing public highway or street.
 - b) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
 - i) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with Manufactured Homes attached.
 - c) Each park shall have improved streets to provide for the convenient access to all Manufactured Home Lots and other important facilities within the park. Streets shall be improved to at least meet minimum Town Highway Department specifications less pavement. Shoulders on both sides shall be widened to not less than 5 feet and adequate drainage facilities shall be provided.
 - i) The street system shall be so designed as to permit safe and convenient vehicular circulation within the park.
 - ii) Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.
 - iii) All streets shall intersect essentially at right angles.
 - iv) All streets shall have the following minimum widths:
 - v) One-way traffic movement, 12 feet.
 - vi) Two-way traffic movement, 20 feet.
 - vii) Except in cases of emergency, no parking shall be allowed on such streets.

f. Parking.

- 1) 1 off-street parking space shall be provided on each manufactured home lot. The parking space shall be of similar construction and grading as the mobile streets. Such space shall have a minimum width of 9 feet and a minimum length of 30 feet.
- 2) Additional off-street parking spaces shall be provided at strategic and convenient locations for guests and delivery and service vehicles.
- 3) There shall be 1 such parking space for each 2 manufactured home lots within the park.
- 4) Such parking space shall be provided in bays which shall provide for adequate maneuvering space.

- g. Utilities and service facilities.** The following utilities and service facilities shall be provided in each manufactured home park, which shall be in accordance with the regulations and requirements of the Town of Perth, the New York State Department of

Health and the Sanitary Code of the New York State Department of Environmental Conservation (NYSDEC):

- 1) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all Manufactured Home Lots and buildings within the park to meet the requirements of the park. Each Manufactured Home Lot shall be provided with proper water connections.
 - 2) Each Manufactured Home Lot shall be provided with a sewer, which shall be connected to the Manufactured Home situated on the lot, to receive the waste from the shower, tub, flush toilets, lavatory and kitchen sink in each home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of any odors and the creation of breeding places for insects.
 - 3) Metal garbage cans with secure and snug covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be kept in sanitary condition at all times. The cans shall be located no further than two hundred (200) feet from any mobile home lot. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that such cans shall not overflow.
 - 4) Service buildings shall be provided as deemed necessary for the normal operation of the park; however, such buildings shall be maintained by the owner or manager of the park in a clean, tidy and sanitary condition.
 - 5) Each manufactured home lot shall be provided with weatherproof electrical service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.
- h. **Open Space.** Each Manufactured Home Park shall provide common open space for use by the occupants of such park. Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least 10 percent of the gross land area of the park.
- i. **Landscaping.** Lawn and ground cover shall be provided on those areas not used for the placement of Manufactured Homes and other buildings, walkways, roads and parking areas. Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the manufactured homes and other facilities.
- 1) Screen planting shall be provided to screen objectionable views. Views which shall be screened include laundry facilities, other non-residential uses, garbage storage and collection areas and all abutting yards of adjacent properties.
 - 2) Other planting may be required along those areas within the park which front upon existing public highways and streets to reduce glare and provide pleasant outlooks for the living units.
- j. **Property Maintenance.** Each stand or lot shall be maintained in an orderly manner. The use of a storage shed not to exceed 144 sq. ft. on each stand or lot shall be required for the storage of equipment and other personal property.

k. **Recording.** The owner or operator of each manufactured home park shall keep a written record of all persons occupying or using the facilities of such park. This record shall be available for a period of at least 1 year from date of occupancy. This record shall include:

- 1) The name and address of the occupant of each Manufactured Home.
- 2) The name and address of the owner of each Manufactured Home which is not occupied by same owner.

11. Travel Trailers in Manufactured Home Parks. The placement and use of travel trailers shall adhere additionally to the conditions contained hereunder.

- a. **Conform with Manufactured Home Park Standards.** All travel trailers which are to be placed on the same lot of record with manufactured homes shall be arranged into a trailer camp in a manner as defined in this Section. All manufactured homes on such land parcel shall be arranged into a mobile home park as defined in this Chapter. Travel trailers shall not be occupied for more than 6 months of the year.
- b. **Separate physical location.** When a travel trailer park/campground and manufactured home park are to be combined on the same legal parcel of land, such travel trailer park/campground and manufactured home park shall have separate physical locations on the parcel of land.
- c. **Manufactured home park.** When the parcel of land is divided for manufactured home park and travel trailer park/campground uses, the provisions contained in Section J, Requirements for Manufactured Home Parks, above shall apply to that portion of the land to be used as a manufactured home park, except as herein provided.
- d. **Travel Trailer Park/Campground.** When the parcel of land is divided for manufactured home park and travel trailer park/campground uses, the provisions identified below for Travel Trailer Parks/Campground, shall apply to that portion of the land to be used for a travel trailer park/campground, except as herein provided.
- e. **Minimum Parcel Size.** The parcel of land which is to provide for both a manufactured home park and travel trailer parks/campground shall be at least 4 acres in size.
- f. **Location on Lot of Record.** Where practicable, that portion of the land to be used as a travel trailer park/campground shall be located adjacent to a public highway or street. Where practicable, the travel trailer park/campground and the manufactured home park shall each have separate points of entry and exit. Where the parcel of land fronts on two (2) or more existing public highway or streets, the travel trailer park/campground shall be located adjacent to the public highway or street that is most heavily traveled.
- g. **Buffers.** The travel trailer park/campground and manufactured home park shall be physically separated by a parcel of land at least fifteen (15) feet in width along all areas where the travel trailer park/campground abuts the manufactured home park. Such

parcel of land shall be properly landscaped with appropriate planting materials so that the view of such travel trailer park/campground from the manufactured home park is adequately screened.

12. Travel Trail Parks/Campgrounds.

- a. **Minimum Standards.** Travel Trailer Parks/Campgrounds shall comply with the following development and maintenance standards, which shall be considered minimum standards:
 1. **Driveways.** All travel trailer parks/campgrounds shall have interior driveways servicing each travel trailer space, such driveways being not less than 24 feet in width and capable of parking two (2) vehicles.
 2. **Minimum space.** Each travel trailer space in such park shall contain a minimum of 1,800 square feet of area, and shall be at least 45 feet in width, and shall front upon a driveway.
 3. **Separate distances.** Travel trailers shall be placed on a designated space in such a manner that there will be not less than 15 feet of separation between travel trailers on adjacent spaces.
 4. **Connections and Facilities.** Each travel trailer park/campground shall provide, at a minimum, the following:
 - a) An electrical outlet capable of supplying 4,000 watts at 110 – 220 volts at each travel trailer or RV space.
 - b) Hookup apparatus for connection to sewerage or disposal system within the Park.
 - c) Faucet or bibcock connected to a water supply system within the Park.
 - d) At a minimum, a public restroom containing a toilet, sink and shower shall be provided at each Park.
 5. **Service Buildings.** Service buildings that house sanitation and/or laundry facilities or any other such facilities shall be permanent structures constructed in accordance with all applicable codes and law of the Town of Perth.
 6. **Lighting.** Each travel trailer park/campground shall be provided with a means of security lighting. All toilet and shower buildings and facilities shall be provided with sufficient lighting facilities, which shall be kept lighted during the time one-half hour after sunset and one-half hour before sunrise. All lights on the premise shall be fully shielded fixtures and no light shall be visible from the source by abutting parcels.

7. Management.

- a) The name of the person with direct management responsibility of the travel trailer park/campground shall be filed for reference with the Town CEO, who shall be notified within 10 days of any changes of said person. It shall be the responsibility of the owner and operator of the premise to take such measures as may be deemed to be necessary by the Town CEO to protect and promote the health, safety, and welfare of patrons and the general public.
- b) Not more than 1 travel trailer shall occupy a space within such park.
- c) No permanent addition or structure shall be built onto or become part of any travel trailer located within the park.
- d) The maximum duration of stay by any travel trailer or individual shall be 6 months. This shall not apply to a permanent on-premise residence for management and the owner of record for the parcel.
- e) All facilities, connections, and travel surfaces shall be maintained in good operating condition.

8. Travel Trailer Outside Parks. Travel trailers are not permitted to be occupied for more than 6 months in 1 year when located outside of a manufactured home park or travel trailer park/campground.

13. Revocation of Permits.

- a. **Written Order.** If the CEO finds and reports to the Town Board that a Manufactured Home Park or a travel trailer park/campground for which a permit has been issued is not being maintained in a clean and sanitary condition or is not being operated in accordance with the provisions of this Section, the Town Board may, by resolution, authorize the delivery to the holder of the permit of a written order which will require said holder to correct the conditions specified in such order within 10 days after the service of such order.
- b. **Revocation of Permit.** If the holder of such permit refuses or fails to correct the condition or conditions specified in such order within 10 days after the personal service of such order, the Town Board may, by resolution, revoke such permit and the holder of the permit shall thereupon terminate the operation of such manufactured home park or trailer camp.
- c. **Correction of Violations.** However, if the owner or operator of such Manufactured Home Park or trailer camp shall thereafter correct such conditions and bring the Manufactured Home Park or travel trailer park/campground into compliance with this Section, such owner may then apply for the issuance of a new permit for such park or camp, and if the application is approved and a permit is granted, the applicant shall pay to the Town Clerk the fee required by this Section without any credit for the fee paid for the permit which was revoked.

14. Exceptions. No provision of this Section shall apply to the following activities or uses:

- a. **Sales.** The business of Manufactured Home or Travel Trailer sales, except that where units are used as living quarters, they shall conform to the provisions of this Section.
- b. **Storage or Garaging.** The storage or garaging of travel trailers not being used for living or sleeping purposes within a building or structure, or the storage of one (1) unoccupied travel trailer on premises occupied as the principal residence by the owner of such travel trailer; provided, however, that such unoccupied mobile home or travel trailer shall not be parked or located between the street line and the front building line of such premises.
- c. **Field office.** A mobile home or travel trailer located on the site of a construction project, survey project or other similar work project and which is used solely as a field office or work or tool house in connection with such project, provided that such manufactured home or travel trailer is removed from such site within thirty (30) days after the completion of such project.

D. Wireless Communication Towers:

- 1. **Purpose.** The purpose of this Section is to establish general guidelines for the siting of wireless communications towers and antennas. In order to accommodate the communication needs of residence and businesses while protecting the public health, safety and general welfare of the community, the Town of Perth finds that these regulations are necessary in order to:
 - b. Facilitate the provision of wireless telecommunications services to residents and businesses of the town.
 - c. Minimize adverse visual affects of towers through careful design and siting standards.
 - d. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
 - d. Encourage the location of towers in non-residential areas.
 - e. Minimize the total number of towers throughout the community.
 - f. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 - g. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 - h. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
 - i. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
 - j. Consider the public health and safety of communication towers.
 - k. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

2. **Definitions.** As used in this Chapter, the following terms shall have the meanings set forth below:

Alternative tower structure shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna shall mean any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network shall mean the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA shall mean the Federal Aviation Administration.

FCC shall mean the Federal Communications Commission.

Height shall mean, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and preexisting antennas shall mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Article, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

3. **Applicability.** This Article shall apply in the following cases:

- a. **New Towers and Antennas.** All new towers or antennas in the Town of Perth shall be subject to these regulations, except as follows:

Amateur Radio Station Operators/Receive Only Antennas. This Article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Article, except as provided by applicable building codes, safety standards, and state and federal rules and regulations.

AM Array. For purposes of implementing this Article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

4. **General Requirements.**

- a. **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- b. **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the least area within the larger parcel of land shall control.
- c. **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the CEO an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Town of Perth or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Article or other organizations seeking to locate antennas within the jurisdiction of the Town of Perth provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- d. **Aesthetics.** Towers and antennas shall meet the following requirements:
 - 1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - 2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - 3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

- e. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views.
- f. **State or Federal Requirements.** All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- g. **Building Codes; Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town of Perth concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- h. **Measurement.** For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Town of Perth irrespective of municipal and county jurisdictional boundaries.
- i. **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- j. **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Town of Perth have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- k. **Public Notice.** For purposes of this Article, any site plan review, variance request, or appeal of an administratively approved use or site plan shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2, Existing Towers- Type, hereafter, in addition to any notice otherwise required by the Zoning Article.
- l. **Signs.** No signs shall be allowed on an antenna or tower.

- m. **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the provisions of Section, Building or Other Equipment Storage, hereunder.
- n. **Multiple Antenna/Tower Plan.** The Town of Perth encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- o. **Permitted Uses.** The uses listed hereunder are deemed to be permitted uses and shall not require administrative approval or a site plan approval: Antennas or towers located on property owned, leased, or otherwise controlled by the Town of Perth provided a license or lease authorizing such antenna or tower has been approved by the Town of Perth.
- p. **Administratively Approved Uses.**
 - 1) The following provisions shall govern the issuance of administrative approvals for towers and antennas:
 - a) The CEO may administratively approve the uses listed in this Section.
 - b) Each applicant for administrative approval shall apply to the CEO providing the information set forth Subsection G, Paragraph 2 hereunder and Subsection I of this Article. and a nonrefundable fee as established by resolution of the Town of Perth to reimburse the Town of Perth for the costs of reviewing the application.
 - c) The CEO may review the application for administrative approval and determine if the proposed use complies with the provisions of Subsection D, General Requirements, and any applicable setbacks and separation distances established in Section, Site Plan Review, of this Article.
 - d) The CEO shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the CEO fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.
 - e) In connection with any such administrative approval, the CEO may, in order to encourage shared use, administratively waive any zoning district setback requirements as established in this Article or separation distances between towers as established in this Article. No waiver shall allow changes exceed one hundred and 50 percent of the original figures.
 - f) In connection with any such administrative approval, the CEO may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
 - g) If an administrative approval is denied, the applicant may file an application for a site plan review as contained in this Article.

- 2) **List of Administratively Approved Uses.** The following uses may be approved by the CEO after conducting an administrative review:
- a) Locating antennas on existing structures or towers consistent with the following conditions:
 - i. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the CEO as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided:
 - (a) The antenna does not extend more than 30 feet above the highest point of the structure.
 - (b) The antenna complies with all applicable FCC and FAA regulations.
 - (c) The antenna complies with all applicable building codes.
 - ii. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the CEO and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
 - (a) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the CEO allows reconstruction as a monopole.
 - (b) Height. An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna. Such modification shall only occur once per the life of the tower. Such modification shall require an additional distance separation as set forth in Section, Site Plan Review, of this Article. The tower's pre-modified height shall be used to calculate such distance separations.
 - (c) Onsite location A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section, Site Plan Review, of this Article. The relocation of a tower hereunder shall in no way be deemed to cause a violation of separation distances established in Section, Site Plan review, of this Article.
 - (d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section, Site Plan Review, shall only be permitted when approved by the CEO.

- iii. **New towers in non-residential zoning districts.** Locating any new tower in a non-residential zoning district, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the CEO concludes the tower is in conformity with the purposes set forth in this Article and the requirements of Section, General Requirements, of this Article; the tower meets the setback requirements and separation distances established in this Article; and the tower meets the following height and usage criteria:

- (a) For a single user, up to 90 feet in height
- (b) For two users, up to 120 feet in height; and
- (c) For three or more users, up to 150 feet in height.

- 3) Locating any alternative tower structure in a non-residential zoning district that in the judgment of the CEO is in conformity with the purposes set forth in this Article.
- 4) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

5. **Site Plan Review.**

- a. The following provisions shall govern the review of site plan applications for towers or antennas by the Planning Board:
 - 1) If the tower or antenna is not a permitted use or a use requiring an administrative approval pursuant to this Article, then a site plan review shall be required for the construction of a tower or the placement of an antenna in all zoning districts except for the R-1 Residential Districts.
 - 2) Applications for site plan review under this Section shall be subject to the site plan procedures and requirements of this Code, except as modified in this Section.
 - 3) In granting approval of a site plan application, the Planning Board may impose conditions to the extent the Planning Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
 - 4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
 - 5) An applicant for a site plan review shall submit the information described in this Section and a non-refundable fee as established by resolution of the Perth Town Board to reimburse the Town of Perth for the costs of reviewing the application.

b. **Site Plan Information.** In addition to any information required for applications for site plan review pursuant to this Chapter, applicants for a site plan review for a tower shall submit additionally the following information:

- 1) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning of the site and all properties within the applicable separation distances set forth in this Article, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Board to be necessary to assess compliance with this Article.
- 2) Legal description of the parent tract and leased parcel (if applicable).
- 3) The setback distance between the proposed tower and the nearest residential unit and residentially zoned properties.
- 4) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Paragraph C of Section, General Requirements, shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
- 5) A landscape plan showing specific landscape materials.
- 6) Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
- 7) A description of compliance with Paragraphs (3), (4), (5), (6), (7), (10), (12), and (13) of Subsection G, General Requirements, of this Section and the height and separation distances prescribed in this Article and all applicable federal, state or local laws.
- 8) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- 9) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
- 10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- 11) A description of the feasible location(s) of future towers or antennas within the Town of Perth based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

6. **Site plan review considerations.** In addition to any standards for consideration of site plan applications pursuant to this Chapter, the Planning Board shall consider the following factors in determining whether to issue a site plan approval, although the Planning Board may waive or reduce the burden on the applicant of one or more of these criteria if the Planning board concludes that the goals of this Article are better served thereby:

- a. Height of the proposed tower
- b. Proximity of the tower to residential structures and residential district boundaries
- c. Nature of uses on adjacent and nearby properties

- d. Surrounding topography
- e. Surrounding tree coverage and foliage
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness
- g. Proposed ingress and egress; and
- h. Availability of suitable existing towers, other structures, or alternative
- i. technologies not requiring the use of towers or structures.

7. **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.** No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Board that no existing tower, structure or alternative technology that does not require the use of towers or structures and accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

8. **Setbacks.** The following setback requirements shall apply to all towers for which a site plan review is required; provided, however, that the Planning Board may reduce the standard setback requirements if the goals of this Article would be better served thereby:

- a. Towers must be set back a distance equal to at least one-hundred percent (100%) of the height of the tower from any adjoining lot line and/or leased area.
- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

9. **Separation.** The following separation requirements shall apply to all towers and antennas for which a site plan review is required; provided, however, that the Planning Board may reduce the standard separation requirements if the goals of this Article would be better served thereby.

- a. Separation from off-site uses/designated areas. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Residential dwelling units ¹	200 feet or 300% height of tower whichever is greater
R-1 residentially zoned land	100 feet or 300% height of tower ² whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

¹Includes manufactured homes used for living purposes.

²Separation measured from base of tower to closest building setback line.

- b. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:
Existing Towers - Types

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5000	5000	1,500	750
Guyed	5000	5000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

- c. **Security fencing.** Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Board may waive such requirements, as it deems appropriate.
- d. **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a site plan review is required; provided, however, that the Planning Board may waive such requirements if the goals of this Article would be better served thereby.
 - 1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.
 - 2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - 3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

10. **Buildings or Other Equipment Storage.**

- a. **Antennas Mounted on Structures or Rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:
 - 1) The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 12 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 100 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 - 2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 25 percent of the roof area.
 - 3) Equipment storage buildings or cabinets shall comply with all applicable building codes.
- b. **Antennas Mounted on Utility Poles or Light Poles.** The equipment cabinet or structure used in association with antennas shall be located in accordance with the following.
 - 1) In residential districts, the equipment cabinet or structure may be located:
 - a) In a front or side yard provided the cabinet or structure is no greater than 8 feet in height or 100 square feet of gross floor area and the cabinet/structure is located a minimum of 10 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 72-84 inches and a planted height of at least 48 inches.

- b) In a rear yard, provided the cabinet or structure is no greater than 10 feet in height or 200 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 48 inches.
 - 2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 10 feet in height or 250 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 48 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 8 feet in height or an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 48 inches.
 - c. **Antennas Located on Towers.** The related unmanned equipment structure shall not contain more than 250 square feet of gross floor area or be more than 10 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
 - d. **Modification of Building Size Requirements.** The requirements of Subsection A through C of Section, Buildings and Other Equipment, may be modified by the CEO in the case of administratively approved uses or by the Planning Board in the case of uses subject to site plan review to encourage collocation.
11. **Removal of Abandoned Antennas and Towers.** Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Town of Perth notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
12. **Nonconforming Uses.**
- a. **Not Expansion of Nonconforming Use.** Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.
 - b. **Preexisting towers.** Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Article.
 - c. **Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.** Notwithstanding Subsection M, above, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain

administrative approval or a site plan approval and without having to meet the separation requirements specified in this Article. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in this Article.

13. **Severability.** The various parts, sections and clauses of this Article are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Article shall not be affected thereby.
14. **Repealer.** Any Articles or parts thereof in conflict with the provisions of this Article are hereby repealed to the extent of such conflict.

ARTICLE 8 - NON CONFORMING USES, BUILDINGS, STRUCTURES AND LOTS

A. **Purpose.** The general purpose of regulating nonconforming uses, structures and lots is to allow for the continued existence of such uses, structures and lots after a zoning change which would otherwise prohibit such use, structure or lot while gradually bringing everything into conformance by regulating how such uses and structures can be reestablished, repaired and restored. Additionally, these regulations allow the nonconforming uses and structures to be physically maintained, and encourage their upkeep so as to preserve safety, functionality and appearance within the Town.

B. **Non-Conforming Uses, Buildings and Structures.**

1. **Continuation.** Any nonconforming use, building or structure which existed lawfully at the time of enactment of this chapter may be continued, subject to the regulations which follow in this Article.
2. **Nonconforming use of land.** The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of the adoption of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. A nonconforming use of land shall not be changed to another nonconforming use. If a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.
3. **Nonconforming use of buildings.** Nonconforming use of a building shall conform with the following regulations:
 - a) **Additions.** Additions or enlargements shall not exceed 20 percent of the floor space of the pre-modified, nonconforming building. Changes in excess of 20 percent shall be allowed only if the nonconforming building and the use thereon are made to conform to all the regulations of the district in which it is located. Any addition or enlargement shall be in conformance with all applicable setback requirements, among others.
 - b) **Alterations and repairs.** No structural alterations shall be made to any nonconforming building unless such alterations are required by law; provided, however, that such maintenance and repairs as are required to keep a nonconforming building or structure in sound condition shall be permitted.
 - c) **Change of Nonconforming Use.** A nonconforming use may be continued, discontinued, or changed to a conforming use. When so changed, the nonconforming use may not be resumed. In no case shall a nonconforming use be changed to a different nonconforming use.
 - d) **Discontinuance.** A nonconforming use of a building or structure or a portion thereof which is discontinued shall not be lawfully reestablished as a nonconforming use. Subsequent use shall conform to the use regulations of the district in which the premises

are located. A use shall be deemed to have been discontinued under any of the following conditions:

- A nonconforming use shall be deemed to have been discontinued if it is changed to a conforming use.
 - Vacancy of a nonconforming use building or discontinuance of a nonconforming use for a period of 12 consecutive months.
- e) **Restoration.** A nonconforming building or use which is more than 50 percent destroyed as measured as a percent of floor area and as certified by either the Fire Chief, CEO, or their designee shall be rebuilt, repaired, restored, or rehabilitated in full conformance with all applicable laws. a. Eligible or duly registered federal or state historic structures may be exempt from the strict application of rules pertaining to nonconforming uses. Such structures may be rehabilitated pursuant to a plan reviewed by a historic preservation architect who certifies that the proposed rehabilitation plan will restore the historical character of the structure. However, damaged interior spaces and future interior uses shall be made to conform to all regulations of the district in which it is located.
- f) **Removal.** If any building in which any nonconforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located and the subsequent use of any building erected thereon shall conform to the regulations of the district.
4. **Validity of permit.** Any building for which a permit has been lawfully granted and on which the construction has been started and diligently prosecuted before the effective date of this chapter may be completed.

C. Non-Conforming Lots.

1. If a lot of record, duly existing prior to the adoption of this Zoning Law or any applicable amendment thereto, fails to meet applicable density, set back or lot size standards as set forth herein, the lot may be developed with any compatible use listed for the zoning district in which such nonconforming lot is located provided that such lot has sufficient width, depth, and area to undertake development that will meet at least two-thirds of the current minimum yard setbacks and other dimensional requirements. Where two-thirds of current minimum yard setbacks and other dimensional requirements cannot be met, the owner shall have the right to apply for one or more area variances. All other provisions of this Zoning Law or other laws or regulations, which may be applicable, must also be met.
2. The development of a nonconforming lot of record shall require site plan approval from the Planning Board and comply with the following conditions:
 - a) All health department regulations shall be satisfied.
 - b) Any residential use of such a nonconforming lot shall be limited to a one-family dwelling.

ARTICLE 9 - SPECIAL USE PERMITS

- A. **Purpose.** It is the policy of the Town of Perth to allow and encourage a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the rural and historic character of the Town or the long-term development of the Town. Many uses are, therefore, permitted only upon issuance of a Special Use Permit by the Planning Board in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria on a case-by-case basis.
- B. **Applicability.** Uses requiring Special Use Permits are identified in the Use Table found in Appendix A. Accessory uses or structures used in connection with a Special Use Permit use shall be subject to the same Special Use Permit approval requirements as the principal structure or use.
- C. **Required Plans and Submittals.** The potential impacts of Special Use Permit uses varies greatly, and therefore the submittal information required for a Special Use Permit Application may vary depending upon the scale, intensity, nature of the proposed use and its proposed location. An applicant for a Special Use Permit shall submit at least 1 original and 10 copies of the following information together with whatever other information the Planning Board deems appropriate:
1. A Town of Perth Special Use Permit application form.
 2. A plot plan drawn to scale with accurate dimensions providing information sufficient to enable the Board to make an informed decision.
 3. An agricultural data statement if required.
 4. A narrative describing the proposed use and operation.
 5. A short-form or long-form SEQR Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant (a long-form EAF is required for all SEQR Type I actions, but the Planning Board may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the project proposal).
 6. The application fee as established by the Town Board, and an escrow deposit for reimbursement of cost of Town consultants (if required) pursuant to Article 3 of this Chapter.
 7. The Planning Board may waive or add any requirements for an application submission it deems appropriate in order to accomplish the purposes set forth herein.
- D. **Procedure.**
1. **Application.**
 - a. **Multiple Uses.** If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQR compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.

- b. **Scheduling.** In order for a Special Use Permit application to be placed on the Planning Board's meeting agenda, the required application materials shall be submitted to the Planning Board at least 7 days prior to the date of the Planning Board's meeting. If an applicant wishes to have a pre-application conference, as described herein below in Paragraph 2, a request for such conference shall be made in writing identifying the subject property, its owner and the proposed use, and shall be submitted 7 days prior to the meeting at which the conference is requested to be scheduled.
 - c. **Completeness Review.** During the first meeting at which a Special Permit application is presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials has been made and the Planning Board has determined that the application is complete.
- 2. **Optional Pre-application Conference.** Prior to submitting a completed application, an applicant may elect to attend a Planning Board meeting to discuss the nature of the proposed use and clarify the information that will need to be submitted for a Special Permit application. The purpose of this meeting is for the applicant and the Board to informally discuss the proposed use and any relevant issues that will need to be addressed before the applicant expends significant time or money on application submittals.
 - 3. **Application for Area Variance.** Where a proposed Special Use Permit application contains one or more features which do not comply with the dimensional regulations of this Law, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to this Law without a decision or determination by the CEO. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same must occur as a condition to the issuance of the Special Use Permit, as a prerequisite for a complete Special Use Permit application, or in conjunction with the Special Use Permit process.
 - 4. **SEQRA Compliance.** Upon receipt of a complete application package, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days of its acceptance of a completed application, EAF and other supporting materials. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this local law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.
- 5. **Referral to County Planning Board.**
 - a. §239-m of the General Municipal shall be adhered to .

6. Agriculture Data Statement. An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district.

- a. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Special Use Permit application to all owners of land within five hundred (500) feet of the project property within an agricultural district and containing farm operations as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

7. Notice and Hearing.

- a. The Planning Board shall hold a public hearing on a Special Use Permit application within 62 days of the date the Planning Board determines that the application is complete. The time in which a public hearing must be held may be lengthened only upon consent of the Applicant and Planning Board.
- b. At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper of the Town and by mailing a notice thereof to all adjoining property owners and to any other property owners in the affected area that the Planning Board may require to be notified.
- c. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board must give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-nn.

8. General Review Criteria.

- a. In considering and acting on uses requiring a Special Use Permit, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Board may prescribe such appropriate conditions and safeguards as may be necessary in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the criteria set forth below. A Special Use Permit shall not be granted until the Planning Board finds that the following criteria, as well as any special criteria, if any, identified for a particular type of use in Section G of this Article.
- b. Harmony With Master Plan. The use shall be in harmony with and promote the goals and objectives of the current Master Plan for the Town, and shall be in compliance with this Law and shall promote the health, welfare and safety of the public.
- c. Compatibility. The proposed use shall be compatible with the character of the neighborhood, the area, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage future planned growth in the area.

- d. Access, Circulation and Parking. The proposed use shall have safe and efficient access for pedestrians and vehicles and shall provide for appropriate offroad parking and loading areas. The interior circulation system must be adequate to provide safe accessibility to all parking spaces and provide adequate and safe integration of pedestrian and vehicular movement.
- e. Infrastructure and Services. There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or that the project extends or provides infrastructure and services for the area where the proposed use is located. There shall also be facilities and services implemented by the applicant to appropriately control any potential nuisances from the operation of the use such as control of litter or trash, loitering and crime prevention, and any other features or aspects of the operation of the proposed use that may affect the public safety, health and general welfare.
- f. Environment and Natural Features. The proposed use shall be compatible with, and appropriately protect environmental and natural resources, including the environmental and physical suitability of the site for development and the general landscaping, screening and buffering shall be in character with the surrounding areas, and the risk of fire, flood or erosion and impacts such as emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and welfare shall be minimized to the maximum extent practicable.
- g. Long Term Effects. The proposed use shall provide positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the town and surrounding properties, districts and uses.

9. Action.

- a. The Planning Board shall grant, deny, or grant subject to conditions the application for a Special Use Permit within 62 days after the hearing. Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the general criteria contained in this Article as well as any special conditions for a particular type of use as established in this Article.
- b. In granting a Special Use Permit, the Planning Board may impose conditions that it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this Law and the Town's Master Plan. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protecting open space and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

10. Expiration, Change of Use, Revocation, and Enforcement.

- a. A Special Use Permit shall expire if the Special Use Permit use or uses cease for more than 12 consecutive months for any reason, if the applicant fails to obtain the necessary Certificate of Compliance or fails to comply with the conditions of the Special Use Permit within 12 months of its issuance, or if its time limit specified in the Special Use Permit expires without renewal.
- b. A Special Use Permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit (as determined by the CEO in issuing a Certificate of Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.
- c. A Special Use Permit may be revoked by the Town CEO if the permittee violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.
- d. Any violation of the conditions of a Special Use Permit shall be deemed a violation of this Law, and shall be subject to enforcement action as provided herein.

E. **Findings Required.** In granting or denying Special Use Permits, the Planning Board shall take into consideration the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the criteria set forth in this Article, any applicable requirements and purposes of this Law, and the policies and goals of the current Master Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.

F. **Amendments.** The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures in this Article. Any enlargement, alteration, or construction of accessory structures subject to a valid special use permit shall require a Special Use Permit amendment.

G. **Special Criteria.** In addition to what is set forth in Section D(8) of this Article, there are additional standards and requirements that apply to the following uses:

Special Permit Uses

Accessory Dwelling – detached
Adult Uses – within Article 14
Agricultural Distillery/Farm Winery
Agricultural Processing Plant
Agricultural Services
Aquaculture Facility
Auto Body and Paint Shop

Automobile Repair Service
Bakery, Retail
Banquet Hall
Bar, Nightclub or Tavern
Barber Shop/Beauty Salon
Bed & Breakfast
Boarding/Rooming House
Brewpub
Business Services
Co-generation Facility as accessory use
Commercial Fuel Sales, Storage and Distribution
Commercial Storage
Concentrated Animal Feed Operation (CAFO)
Dance Studio
Daycare Center
Drive-In Service Establishment
Farm Stand
Firewood Cutting & Sales
Flea Market
Funeral Home
Home Occupation – Onsite Service
Kennel
Livestock Auction or Sale
Manufactured Home Parks
Microbrewery
Minor Mining Operations
Museum
Private Airport
Private Club or Lodge
Restaurant
Retail Store
Riding Stable and Academy
Signs-off Premise
Small Engine Repair
Small Wind Energy System
Solar Farm
Storage Yard for Forest Products
Tanning Studio
Tattoo Parlor
Two-family Dwelling/Duplex

1. Accessory Dwelling – detached:

- a. A maximum of one (1) detached accessory dwelling unit shall be allowed per lot.
- b. The floor area of a detached accessory dwelling shall not exceed 50% of the floor area of the primary dwelling up to 1,000 sq. ft.
- c. A lot occupied by two (2) or more dwelling units shall not be permitted a detached accessory apartment.
- d. One (1) additional parking space must be available on a lot for a detached accessory dwelling.
- e. Detached accessory dwellings constructed in the AR-Agricultural Residence District shall be no closer to the street than 15' behind the plane of the façade of the principal dwelling. Detached accessory dwellings in the Commercial-Residential District shall either be recessed behind or flush with the plane of the façade of the principal building.
- f. The height of a detached accessory dwelling shall not exceed the height of the primary dwelling.
- g. All applicable setbacks for the Zoning District in which the accessory unit is proposed, shall apply likewise for detached accessory dwellings.
- h. The orientation of the proposed detached accessory dwelling shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings as determined by the character of the surrounding neighborhood, including landscape screening, fencing and window and door placement.
- i. Exterior finish materials, roof pitch, eaves, trim, doors and windows for detached accessory dwellings shall be similar in kind, style and proportion to the principal building.
- j. No detached accessory dwelling shall be subdivided from portions of the parcel where the principal dwelling unit is located, if such subdivision results in a lot or residence that fails to meet applicable minimum bulk requirements in the Zoning District.

2. Adult Uses:

- a. See Article 14.

3. Agricultural Distillery/Farm Winery:

- a. Must have off-street parking spaces available for every employee working during the shift of greatest employment.
- b. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.
- c. Outdoor storage of any materials used in the distillery process must be screened from view of adjacent property owners.
- d. If there is a retail component or a tasting room associated with this use, the applicant will be required to identify the hours of operation and occupancy capacity for that area so that the off-street parking standards can be established by the Planning Board.

4. Agricultural Processing Plant:

- a. In an Agriculture/Residence Zone, a minimum of ten (10) acres must be available to operate this type of business.

- b. Off-street parking spaces must be available for every employee working during the shift of greatest employment, plus one (1) additional space for every 250 sq. ft. of gross retail space.
- c. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.
- d. Any outdoor storage of equipment or raw materials must be fully screened from view. This includes dumpsters and garbage pails used for refuse collection.

5. Agricultural Services:

- a. In an Agriculture/Residence Zone, a minimum of five (5) acres must be available to operate this type of business.
- b. Off-street parking spaces must be available for every employee working during the shift of greatest employment, plus one (1) additional space for every 250 sq. ft. of gross retail space.
- c. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m. daily. There shall be no Sunday deliveries.
- d. Any outdoor storage of tools, implements, feed, grain, tack, animal care products and farm supplies must be screened from view of adjacent property owners. Such storage must be located in side or rear yards. This includes dumpsters and garbage pails used for refuse collection.

6. Aquaculture Facility:

- a. An aquaculture Facility shall not be located on a parcel less than five (5) acres in size.
- b. Facilities shall be located a minimum of 1,000' from the nearest residential structure not owned by the owner or operator of the facility.
- c. Facilities shall comply with all applicable NYSDEC and other New York State regulations and applicable federal requirements.
- d. Any structures or outside storage areas shall be adequately screened from view of abutting properties.
- e. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.
- f. Off-street parking spaces must be available for every employee working during the shift of greatest employment. Additionally, if there is a retail component to the facility, one (1) additional off-street parking space must be available for every 100 sq. ft. of retail sales space.
- g. Any outdoor storage of tools, implements, feed, grain, tack, animal care products and farm supplies must be screened from view of adjacent property owners. Such storage must be located in side or rear yards. This includes dumpsters and garbage pails used for refuse collection.

7. Auto Body and Paint Shop and Automobile Repair Service:

- a. These uses shall not be located within 200' of a single-family dwelling.
- b. The storage of vehicles, vehicle parts, dismantled vehicles or equipment and similar articles shall not be permitted within 100' of a residential parcel or in any required yard, landscaped

or buffered area and shall be visually concealed as viewed from a public roadway or abutting residential property.

- c. Old tires that are offered for sale may only be placed outside during normal business hours, but shall be stored in a rack. Old tires to be scrapped or sold for junk shall be stored either inside a building or screened from public view through any combination of landscaping, mounding or fencing to effectively screen stored materials. No material or merchandise shall be stored or allowed to accumulate to a height of more than the height of the effective screening.
- d. All motor vehicles on the premises shall carry a current registration or work order with a completion date not to exceed 90 days. Motor vehicles without valid registration and a work order shall be deemed junk and may not be stored on the premises.
- e. All repair work is to be performed within a building. Automobiles waiting to be serviced or stored on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period of thirty (30) days and shall be stored in the rear of the premises or visually concealed as viewed from a public roadway or abutting residence.
- f. No vehicles shall be parked or left standing within 35' of a public road right-of-way.
- g. Until lawfully disposed of, all discarded parts, fluids and similar waste shall be stored in an enclosed structure or fenced area so as to not be visible from adjacent residential properties. No such waste materials may be disposed of on the lot.
- h. Exterior lighting proposed for the site shall be planned, erected and maintained to not cast direct light or glare upon adjacent properties or upon any public right-of-way.
- i. An opaque or vegetative screening treatment shall be provided on all sides of the property that are adjacent to residential properties.
- j. The entire area of the auto body and paint shop and automobile repair service traversed by motor vehicles shall be hard surfaced.
- k. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

8. Bakery, Retail:

- a. The use can be no closer than 200' from an adjacent residence.
- b. The hours of operation for the retail component of the bakery are limited to 6:00 a.m. to 8:00 p.m.
- c. If there is an onsite baking production component, the hours of operation are limited to 4:00 a.m. to 10:00 p.m.
- d. No food, beverage or raw materials may be stored outside of the building.
- e. Covered trash containers must be provided outside and on the rear of the property and must be screened.
- f. Equipment cannot be washed outside of the building.
- g. Off-street parking must be available for every employee working during the shift of greatest employment plus one (1) additional space for every 200 sq. ft. of gross floor area for customers.
- h. Deliveries must take place between the hours of 7:00 a.m. and 8:00 p.m.

9. Banquet Hall:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m.
- b. A minimum of three (3) acres must be available to operate this type of business.
- c. No food, beverage or raw materials may be stored outside of the building.
- d. Covered trash containers must be provided outside on the rear of the property and must be screened.
- e. The business must be set back at least 100' from any adjacent residential buildings.
- f. At least one (1) off-street parking space must be provided for every 100 sq. ft. of seating/assembly area and one (1) off-street parking space for every 250 sq. ft. of non-seating gross floor area.
- g. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

10. Bar, Nightclub or Tavern:

- a. In the AR-Agriculture-Residential District, the hours of operation are limited to 10:00 a.m. to 8:00 p.m.
- b. No food, beverage or raw materials may be stored outside of the building.
- c. Covered trash containers must be provided outside and on the rear of the property and must be screened.
- d. In the AR-Agriculture-Residential District, no outdoor tables and/or seats shall be allowed.
- e. In the AR-Agriculture-Residential District, the business must be located at least 200' from an adjacent residential property and 300' from any existing residential structure.
- f. Off-street parking areas must be screened from adjacent residential uses.
- g. Music or entertainment shall only take place indoors.
- h. Exterior lighting proposed for the site shall be planned, erected and maintained to not cast direct light or glare upon adjacent properties or upon any public right-of-way.
- i. The use must not generate traffic that creates traffic congestion or creates the need for spillover parking on State, County or Town roads.
- j. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

11. Barber Shop/Beauty Salon:

- a. Two (2) off-street parking spaces must be provided for every barber chair or beauty station work area plus one (1) off-street parking space for each two (2) chairs in the waiting area. If the business includes a tanning area, one (1) additional off-street parking space must be provided for every tanning booth.
- b. The hours of operation for the business in an AR-Agriculture-Residential District shall be 7:00 a.m. to 8:00 p.m.
- c. One business identification sign up to 12 sq. ft. in area is permitted in the AR-Agriculture-Residential Zone. Such sign may not be internally illuminated.
- d. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

12. Bed and Breakfast:

- a. The owner of the Bed and Breakfast must reside in and continue to reside in the building as their principle residence. The owner shall provide upon request a sworn statement certifying to such residency upon request of the CEO.
- b. The Bed and Breakfast shall be limited to a maximum of eight (8) guest rooms.
- c. The applicant shall meet all requirements for the provisions of off-street parking at the rate of one (1) parking space per room. Onsite parking shall be adequately screened from the neighboring properties. On premise parking areas shall not be located within 15' of any residential property line.
- d. No other onsite home-based business as defined in this chapter shall be conducted on the premises. Off-site home-based businesses are permitted as of right in any district. Meals may be served to guests only and no meals may be served to the general public. As such, a public dining room or bar is expressly prohibited.
- e. All signage for the premises shall comply with applicable sign regulations of the Zoning District in which said establishment is located.
- f. Guest occupancy may not exceed 21 consecutive days.

13. Boarding/Rooming House:

- a. Dwelling or building must be at least 500' from an existing residence.
- b. Sufficient onsite parking shall be provided. The precise number of parking spaces required will be determined by the Planning Board based on the operating characteristics of the specific proposal.
- c. The dwelling or building must be located along or near a collector or arterial street with reasonable access to public transportation.
- d. The dwelling or building must be accessible to necessary support services.
- e. No signage advertising the dwelling or building as a Boarding/Rooming House is permitted.

14. Brew Pub:

- a. No more than 50% of the total gross floor area of the establishment shall be used for the brewery function including but limited to the brew house, boiling and water treatment areas, bottling and kegging lines, milling and storage fermentation tanks, conditioning tanks and serving tanks.
- b. All mechanical equipment visible from the street or an adjacent residential use shall be screened using architectural features consistent with the principal structure.
- c. Access and loading bays shall not face toward any street.
- d. Access and loading bays facing an adjacent residential use shall have the doors closed at all times except during the movement of raw materials, other supplies and finished products into and out of the building.
- e. Service trucks for the purpose of loading and unloading materials and equipment shall be restricted to the hours of 7:00 a.m. to 8:00 p.m. There shall be no Sunday deliveries.
- f. No equipment or raw materials shall be stored outside of the building.
- g. Covered trash containers must be provided outside on the rear of the property and must be screened.

15. Business Services:

- a. General review criteria.

16. Co-generation Facility as Accessory Use:

- a. General review criteria.

17. Commercial Fuel Sales, Storage and Distribution:

- a. A minimum lot size of five (5) acres.
- b. Fuel storage areas must be located on the rear portion of the property.
- c. Fencing and screening is required around all portions of the lot utilized for fuel sales and storage.
- d. Outdoor fuel storage areas must be a minimum of 200' from an adjacent property used for residential purposes.
- e. Hours of operation, including deliveries to and from the site, are limited to 7:00 a.m. to 8:00 p.m. daily. There shall be no Sunday deliveries.

18. Commercial Storage:

- a. Minimum lot size of two (2) acres.
- b. No storage unit shall be located closer than 50' to a side or rear property line.
- c. Traffic aisles shall be sufficient width so as to allow for loading and unloading, maneuvering and circulation of vehicles and shall in no case be less than 20' in width.
- d. No yard area outside of the storage units shall be used for the storage of goods, equipment, materials etc.
- e. Lighting use to illuminate any interior traffic aisle, off-street parking areas, loading or unloading areas shall be shielded or so arranged as to reflect light away from adjacent properties.
- f. Storage units shall be designed, landscaped, screened and otherwise treated in a manner that will be aesthetically pleasing and compatible with surrounding uses.
- g. Storage units shall not exceed 30' in height.
- h. The maximum lot coverage for the storage buildings is 50%.

19. Concentrated Animal Feed Operation (CAFO):

- a. The parcel devoted to this use must have a minimum of 50 acres.
- b. The required buffer between any aspect of a CAFO and the parcel boundary line shall be 300'.
- c. A plan for best management of animal waste products must be submitted and approved by the Planning Board.

20. Dance Studio:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m. daily.

- b. One (1) off-street parking space must be provided for each employee plus one (1) for every four (4) students based upon the maximum occupancy of the building.
- c. Adequate area for safe and convenient loading and unloading of students must be provided.
- d. One (1) sign not to exceed 12 sq. ft. in size can be provided. This sign shall not be illuminated.

21. Day Care Center:

- a. General review provisions.

22. Drive-in Service Establishment:

- a. The side of the business with a drive-thru window must have a side yard setback of at least 50' from an adjacent property line.
- b. The drive-thru component of the business must not interfere with other pedestrian movements in the area.
- c. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m.
- d. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

23. Farm Stand:

- a. Farm Stand may be located no closer than 20' to the front property line.
- b. A Farm Stand located on a lot with a separate principal use must have at least five (5) off-street parking spaces dedicated to the Farm Stand.
- c. Farm Stands may only be operated between the hours of 7:00 a.m. and 7:00 p.m. daily. In the Commercial-Residential District, the hours of operation are limited to 7:00 a.m. and 8:00 p.m.

24. Firewood Cutting and Sales:

- a. A minimum of five (5) acres must be available to operate this type of business.
- b. Firewood cutting shall only be undertaken between the hours of 8:00 a.m. and 6:00 p.m.
- c. Access roads on the property shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto public roads.
- d. The area used for processing and storage of firewood shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto a public road and shall not be less than 50' from any property line.
- e. Felling of trees or skidding them on or across any public road shall be prohibited without express written authorization from the Town.

25. Flea Market:

- a. In the AR-Agriculture-Residential Zone, the hours of operation are limited to 7:00 a.m. to 6:00 p.m. In the Commercial-Residential District, the hours of operation are limited to 7:00 a.m. to 8:00 p.m.

- b. Signage advertising the business in the AR-Agriculture-Residential Zone is limited to 12 sq. ft. In the Commercial-Residential District, signage is limited to 50 sq. ft. Signage shall not be illuminated.
- c. Individual vendor signs are only allowed on booths, tables or within the vendor's leased space.
- d. At least one (1) off-street parking space must be provided for every 200 sq. ft. of gross sales area including booths, tables, pedestrian aisles, amusement rides and ancillary uses.
- e. All sales areas, booths, tables, pedestrian aisles, amusement rides and ancillary uses must be set back at least 100' from an adjacent property line. In the AR-Agriculture-Residential District, the use must be set back at least 200' from the nearest residence.
- f. In the AR-Agriculture-Residential Zone, the use must not generate traffic that creates traffic congestion or creates the need for spillover parking on State, County or Town roads.
- g. In the AR-Agriculture-Residential Zone, deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

26. Funeral Home:

- a. Off-street parking spaces must be available for every employee and ¼ of the occupancy capacity of the building.
- b. Hours of operation for the business are limited to 7:00 a.m. to 9:00 p.m. in the Agricultural/Residential Zone.
- c. There shall be sufficient off-street area to allow the forming of vehicular funeral processions without interference with normal traffic circulation on adjacent streets. The area available for this purpose shall not be less than ten thousand (10,000) square feet.

27. Home Occupation Onsite Service:

- a. Customer/client and non-resident employee presence at the residence shall be limited to between the hours of 7:00 a.m. and 8:00 p.m.
- b. In addition to parking required for the residence of the home, there shall be no more than three (3) vehicles parked on or in the vicinity of the property as a result of the Home Occupation at any one time.
- c. No outdoor storage or display of merchandise, equipment or material related to the Home Occupation shall be permitted.
- d. Space requirements and utilization of that portion of the residence for activities associated with the Home Occupation shall not exceed 20% of the gross floor area of the residence or 300 sq. ft., whichever is greater. Attached and Detached Garages shall be considered part of the residence and included in determination of gross floor area. All of an Attached or Detached Garage may be used for Home Occupation purposes, provided said garage does not exceed 600 sq. ft.
- e. The Home Occupation shall operate in such a manner as to avoid any external effect beyond the confines of the subject dwelling such as increased noise, vibration, offensive odor, glare or electrical interference which is incompatible with the characteristics of the Agriculture-Residential Zone.
- f. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

28. Kennel:

- a. Kennels on property less than 5 acres in size shall be maintained within a completely enclosed soundproof building and should produce no objectionable odors outside its walls.
- b. Kennels located on properties 5 acres or more in size shall be setback at least 200' from side and rear property lines and 75' from any public right-of-way.
- c. The animal runs for small animals shall be surfaced with concrete or other impervious surfaces.
- d. Outside runs must be a minimum of 300' from any dwelling other than the dwelling of the owner and the run or yard area shall be enclosed with solid fencing at least 6' in height. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow animals kept outdoors to protect themselves from the direct rays of the sun.
- e. Animals shall be provided with access to shelter to allow them to remain dry during inclement weather.
- f. During cold weather months, sufficient clean bedding material or other means of protection from the weather shall be provided for animals not acclimated thereto.
- g. Animals can only be kept in outdoor runs between the hours of 7:00 a.m. and 7:00 p.m.

29. Livestock Auction or Sale:

- a. A livestock auction or sale shall not take place on a lot less than 5 acres in size.
- b. Animals shall not be penned within 100' of an adjacent property boundary or 75' from a public right-of-way.
- c. Off-street parking spaces must be made available for the auction or sale. The Planning Board shall decide on the number of off-street parking spaces required based on the size of the operation.

30. Manufactured Home Parks:

- a. See Article 7.

31. Microbrewery:

- a. A minimum lot size of 5 acres.
- b. All mechanical equipment visible from the street or an adjacent residential use shall be screened using architectural features consistent with the principle structure.
- c. Access and loading bays shall not face toward any street.
- d. Access and loading bays facing an adjacent residential use shall have the doors closed at all times except during the movement of raw materials, other supplies and finished products into and out of the building.
- e. Service trucks for the purpose of loading and unloading materials and equipment shall be restricted to the hours of 7:00 a.m. to 8:00 p.m. There shall be no Sunday deliveries.
- f. No equipment or raw materials shall be stored outside of the building.
- g. Buildings must be setback at least 200' from any residential buildings.

32. Minor Mining Operations:

- a. All mining operations shall be setback not less than 250' from all property and street lines.
- b. The area between the proposed mining operation and all street and all property boundaries within 500' shall include a continuous strip (except for an opening not more than 50' wide for vehicular access not less than 20' wide planted with evergreen trees or shrubs spaced as closely together as appropriate for the species selected by the applicant, subject to the Planning Board approval and capable of reaching not less than 10' in height at maturity).

33. Museum:

- a. The hours of operation in the AR-Agriculture-Residential Zone are limited to 7:00 a.m. to 8:00 p.m.
- b. One (1) off-street parking space must be available for each 250 sq. ft. of gross floor area plus one (1) for every two (2) employees.
- c. In the AR-Agriculture-Residential Zone, no displays are allowed outside of a building.
- d. In the Commercial and Public Institutional Zone, any outdoor display areas must be behind the building and located no closer than 100' to an adjacent property line.

34. Private Airport:

- a. General review criteria.

35. Private Club or Lodge:

- a. In an AR-Agriculture-Residential District, the use shall only be open between the hours of 7:00 a.m. and 8:00 p.m.
- b. One (1) off-street parking space must be available for every 100 sq. ft. of gross floor area within the building.
- c. Any outdoor assembly areas must be adequately screened from adjacent properties.
- d. Retail sales of food and beverages may be permitted to members and guests only and there shall be no externally-visible sign of commercial activity.
- e. In the AR-Agriculture-Residential Zone, there shall be no outdoor music or live entertainment.
- f. In the AR-Agriculture-Residential Zone, deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

36. Restaurant:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m.
- b. No equipment or raw materials shall be stored outside of the building.
- c. Signage shall be limited to 25 sq. ft.
- d. Any outdoor seating areas must be adequately screened from adjacent residential uses.
- e. There shall be no music or live entertainment outdoors.
- f. At least one (1) off-street parking space must be provided for every four (4) seats or one (1) space for every 100 sq. ft. of gross floor area including outside seating, whichever is greater.

- g. The use must not generate traffic that creates traffic congestion or creates the need for spillover parking on State, County or Town roads.
- h. Deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

37. Retail Store:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m.
- b. At least one (1) off-street parking space must be available for every 200 sq. ft. of gross floor area.
- c. A maximum of 25 sq. ft. of signage may be provided for the business. This signage shall not be illuminated.
- d. No outdoor storage of materials or goods shall be allowed.
- e. Any loading docks or delivery areas must be located on the side or the rear of the building and must be screened from adjacent residential uses.
- f. The use must not generate traffic that creates traffic congestion or creates the need for spillover parking on State, County or Town roads.
- g. In the AR-Agriculture-Residential Zone, deliveries must take place Monday through Saturday between 7:00 a.m. and 8:00 p.m. There shall be no Sunday deliveries.

38. Riding Stable and Academy:

- a. A minimum of five (5) acres is required for this type of use.
- b. All buildings and structures, including riding rings and manure storage, shall be located at least 200' from any property or street line. The manure storage areas shall be screened and/or buffered from adjacent properties.
- c. All activities must take place between 7:00 a.m. and 8:00 p.m.
- d. The use of a temporary building or trailers for the stabling of horses or ponies in excess of 15 days is prohibited.
- e. There shall be no storage of supplies outside of permanent buildings.
- f. Where the holding of shows or competitions is intended, off-street parking must be available at a rate of one (1) space for every five (5) spectators. Such parking area need not be paved, but shall, at a minimum, be graveled and treated to reduce dust.
- g. Exterior lighting shall be installed and arranged so as to reflect light away from adjoining streets and prevent any nuisance to adjoining properties.

39. Signs Off-Premise:

- a. General review criteria.

40. Small Engine Repair:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m. daily.
- b. There shall be no outside repair of engines on the site.
- c. There shall be no outdoor storage of equipment, engines, tools, fuel etc. on the site.
- d. This type of use shall not take place within 100' of a property line or 200' of an existing residence.

- e. Until lawfully disposed of, all discarded parts, fluids and similar waste shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent residential properties. No such waste materials may be disposed of on the lot.
- f. Any exterior lighting proposed for the site shall be planned, erected and maintained to not cast direct light or glare upon adjacent properties or upon any public right-of-way.

41. Small Wind Energy System:

- a. All parts of the structure, including the tower, base footings and turbine, but excluding guy cables and their anchors, shall be set back a distance of not less than 110% of the system height from all adjacent property lines and a distance of not less than 150% of the system height from any inhabited structure, road right-of-way and right-of-way for overhead electrical transmission or distribution lines.
- b. Guy cables and their anchors shall meet the setback requirements as established for accessory structures in the Zoning District in which the system is proposed to be located.
- c. In order to install this type of system, the owner must comply with the following additional standards:
 - 1. Purpose. A small wind energy system shall only be used to reduce consumption of off-site energy and shall be used primarily to power onsite facilities and uses. Unused surplus electricity generated through a small wind energy system may be lawfully supplied, with or without compensation, to an offsite electric grid.
 - 2. Noise. The small wind energy system shall not exceed a noise level of 60 decibels as measured at the closest property line and under typical operating conditions. The noise level may be exceeded during short-term events such as utility outages and/or severe wind storms.
 - 3. Building Code Compliance. Building permit applications shall be accompanied by standard drawings of the system structure, including the tower, base, footings, and guy cables. An engineering analysis of the tower showing compliance with the Uniform Statewide Building Code and certified by a licensed professional engineer also shall be submitted. This analysis may be supplied by the manufacturer.
 - 4. Electric Code Compliance. Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components of the system showing compliance with the National Electric Code and certified by a licensed professional engineer. This information may be supplied by the manufacturer.
 - 5. Notifications regarding Aircraft. Small wind energy systems shall comply with all applicable regulations of the FAA, including any necessary approvals for installations close to airports. The applicant has the responsibility of determining the applicable FAA regulations and securing all necessary reviews and approvals.
 - 6. Local Utility Company Notification. If a small wind energy system is to be connected to an off-site utility service provider, the applicant shall notify the electric utility service provider of the applicant's intent to install an interconnected customer-owned electricity

generator no later than 5 business days prior to submitting a building permit application. Copies of letters must be included in the building permit application.

7. Minimum Distances. The distance between any protruding blades utilized on a small wind energy system and the ground shall be a minimum of 15 feet as measured at the lowest point of the arc of the blades. The distance between the lowest point of the arc of the blades and the peak of any structure within 150 feet of the blade arc shall be a minimum of 10 feet.
8. Radio and Television Signals. The small wind energy system shall not cause any electromagnetic interference with communications signals, such as radio, television, microwave, or navigation signals. If a signal disturbance problem is identified, the applicant shall correct the problem within 60 days of being notified of the problem.
9. Appearance. The small wind energy system shall maintain a galvanized neutral finish or be painted to conform the system color to the surrounding environment to minimize adverse visual effects. No small wind energy system shall have any signage, writing, pictures, or decorations placed on it at any time other than warning, equipment, and ownership information. No small wind energy system shall have any flags, streamers, banners, and other decorative items that extend from any part of the system placed on it at any time.
10. Repair. A small wind energy system that is not functional shall be repaired by the owner or removed. In the event that the Town becomes aware of any system that is not operated for a continuous period of 3 months, the Town will notify the landowner by registered mail and provide 30 days for a written response. The written response shall include reasons for the operational difficulty, the corrective actions to be performed, and a reasonable timetable for completing the corrective actions. If the Town deems the proposed corrective actions, the timetable for completing corrective actions, or both as infeasible or unreasonable, the Town shall notify the landowner and such landowner shall remove the turbine within 120 days of receiving said notice.
11. Removal Upon End of Useful Life. When a system reaches the end of its useful life and can no longer function as originally designed, the owner of the system shall remove the system within 120 days of the day on which the system last functioned. The owner shall be responsible for the removal of the system and all costs, financial or otherwise, of system removal.
12. Fencing. The tower shall be enclosed with a fence of at least 8 feet in height or the base of the tower shall not be climbable for a distance of 12 feet measured from the base of the tower.
13. Height. The applicant shall provide evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

14. Required Safety Features. The small wind energy system shall have an automatic overspeed control to render the system inoperable when winds are blowing in excess of the speeds for which the system is designed and a manually operable method to render the system inoperable in the event of a structural or mechanical failure of any part of the system.

42. Solar Farms – (See Article 13):

43. Storage Yard for Forest Products:

- a. Storage yard operations.
- b. Loading, unloading and transporting of trees, firewood or other forest products shall take place between 8:00 a.m. and 6:00 p.m. There shall be no Sunday deliveries.
- c. Skidding of trees on or across a public road shall be prohibited without express written authorization from the Town.
- d. Log storage areas shall not be less than 200' from any existing residential, commercial, institutional, public or semi-public building other than such building located on the property in which the storage is located.
- e. Storage yards shall be located on gently sloping ground that will provide good drainage. Low spots and poorly-drained places shall be avoided.

44. Tanning Studio:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m. in an AR-Agriculture-Residential District.
- b. One (1) off-street parking space must be available for every tanning bed provided in the business.
- c. In the AR-Agriculture-Residential Zone, a maximum of 12 sq. ft. of signage can be provided. The signage shall not be illuminated.

45. Tattoo Parlor:

- a. The hours of operation for the business are limited to 7:00 a.m. to 8:00 p.m.
- b. Two (2) off-street parking spaces must be available for every tattoo or body piercing artist.
- c. No exterior displays showing photographs or tattoo artistry are allowed outside of the building.

ARTICLE 10 – SITE PLANS

A. Purpose:

1. The purpose of this Article is to allow the proper integration into the Town of those uses listed in Schedule A – Town of Perth Zoning Use Table of this Chapter, which have been determined to be suitable within a zoning district only on certain conditions and only at appropriate locations. Because of their characteristics, or the special characteristics of the area in which they are proposed to be located, these uses require special consideration so that they may be properly located, planned and developed taking into consideration:
 - a. The objectives of this Chapter;
 - b. The proposed uses effect on surrounding properties;
 - c. The ability of the Town to accommodate the growth resulting from the proposed use without undue, adverse effect on the Town, the Town's infrastructure and the Town's citizens and taxpayers;
 - d. The protection of the health, safety and general welfare of the Town and its citizens; and
 - e. The objectives of the Town Comprehensive Plan.
2. Pursuant to the land use policies and goals of the Town of Perth, it is the Town's policy to balance the allowance of a variety of uses of land and to foster economic opportunities within the municipal boundaries of the Town, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, the rural and historic character of the Town or the long-term development of the Town. Many uses, therefore, require review and approval of a Site Plan by the Planning Board before such uses and site development is permitted. The primary purposes of Site Plan review and approval is to ensure that the site can accommodate the proposed use without unduly affecting neighboring properties or the environment and that the site is appropriately designed.

B. Applicability:

1. Site Plan approval is required for certain uses where Site Plan approval is required as part of the conditions for a Special Use Permit or where Site Plan approval is required pursuant to this Chapter. For such uses, the CEO shall not issue any zoning permit or building permit, or certificate of occupancy or compliance until a site plan has been approved in accordance with this Article. Until such site plan has been approved, and a zoning permit and building permit issued, no building shall be erected, moved, structurally altered, added to or enlarged and no excavation or site preparation activities shall commence.

C. Application Procedures:

1. **Placement on Agenda.** In order for a Site Plan matter to be placed on the Planning Board's meeting agenda, the required application materials pursuant to paragraph (5), "Application for Site Plan Approval," below shall be submitted to the Planning Board at least 7 days prior to the date of the Planning Board's meeting. In order for a sketch plan conference, as described in paragraph (4), "Sketch Plan," to be scheduled, a request for such conference shall be in writing identifying the subject property, its owner and the proposed use, and shall be submitted 7 days prior to the meeting at which the conference is requested to be scheduled.

2. **Completeness Review.** At the first meeting at which a Site Plan application is first presented as an agenda item, the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the Applicant in writing as to what aspects of the application submittal are lacking or are otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination by the Planning Board that the application is complete. As such, the scheduling of a sketch plan conference may resolve confusion and thereby save time by allowing an opportunity for the applicant and the Planning Board to identify what documentation will be expected in order to constitute a complete application.
3. **Multiple Uses.** If an application is for a parcel or parcels on which more than one use requiring Site Plan approval is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQR compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.
4. **Sketch Plan.** The applicant may elect to hold a sketch plan conference with the Planning Board prior to the preparation and submission of a formal site plan. The use of the sketch plan conference is strongly encouraged since it may provide for a more efficient and predictable review process and avoid unnecessary costs. The intent of such a conference is to enable the applicant to inform the Planning Board of the proposal prior to the preparation of a detailed site plan, and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. As such, an applicant is encouraged to schedule and attend the sketch plan conference. In order to accomplish these objectives, the applicant should provide the Planning Board with as much information as is practicable; the following is suggested:
 - a. A sketch plan showing (to an approximate scale) the locations and dimensions of existing and proposed principal and accessory structures, parking areas, and other planned features;
 - b. A sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features;
 - c. A statement or sketch showing significant environmental features such as streams, wetlands, forested areas, and flood plain areas; and
 - d. A topographic or contour map of adequate scale and detail to show site topography. At the sketch conference, or within 31 days after the sketch conference has been held, the Planning Board shall provide the applicant with a list of information to be submitted with the site plan application as well as any recommendations that the Planning Board may have with respect to the proposed application. The list of information may be drawn from the checklist set forth in paragraph (5), "Application for Site Plan Approval," as determined necessary by the Planning Board.

5. Application for Site Plan Approval. An application for site plan approval shall be made in writing to the Planning Board on forms supplied by the Town and shall be accompanied by the required fee, a site plan map (prepared by an engineer, architect or land surveyor licensed in New York State) and such other material that includes the information contained on the following checklist. The Planning Board requires that twelve (12) copies of the entire application package be submitted. If a sketch plan conference was held, the information accompanying the site plan shall include any items that the Planning Board indicated at the conference would be required. The following is a Site Plan Checklist:

- a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- b. North arrow, scale and date.
- c. Boundaries of the property plotted to scale of one inch to 50 feet (if the property is located in more than one zoning district, the boundaries of the districts shall also be shown).
- d. Existing contours (unless otherwise indicated by the Planning Board, two-foot contours shall be required showing the topography for all disturbed areas of the parcel and land within 100 feet of such areas).
- e. Existing watercourses and wetlands.
- f. Grading and drainage plan, showing existing and proposed final contours.
- g. Location, design, type of construction, proposed use and exterior dimensions of all buildings.
- h. Location and widths of existing and proposed driveways for the site and access to existing roads and highways. Location to nearest intersection of public roads to be provided.
- i. Location, design and type of construction of all parking and truck loading areas, showing access and egress.
- j. Provision for pedestrian access if applicable.
- k. Location of outdoor storage, if any.
- l. Location, design and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences.
- m. Description of the method of sewage disposal and location, design and construction materials of such facilities; Percolation and deep hole tests must be performed in the immediate vicinity of the leachfield location.
- n. Description of the method of securing potable water and location, design and construction materials of such facilities.
- o. Location of fire and other emergency zones, including the location of fire hydrants.
- p. Location, design and construction materials of all energy distribution facilities, including electrical, gas and alternative energy.
- q. Location, size and design and type of construction of all proposed signs.
- r. Location and proposed development of all buffer areas, including existing vegetative cover.
- s. Location, design, type, and uses of exterior lighting and signs.
- t. The type, location, and hours of activities likely to generate noise or ground vibrations of a magnitude as to be a public concern.
- u. Location and design of outdoor lighting facilities.
- v. Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- w. General landscaping plan and planting schedule.
- x. The approximate location of wells and septic systems on adjacent properties must be noted.

- y. An estimated project construction schedule.
 - z. Record of application for and approval status of all necessary permits from federal, state and county officials.
 - aa. Identification of any federal, state or county permits required for the project's execution.
 - bb. Description of the proposed use or uses, including hours of operation, number of employees, expected volume of business, and type and volume of traffic expected to be generated.
 - cc. Stormwater Pollution Prevention Plan (SWPPP) for all land development activities (excluding agricultural activities) on the site that results in land disturbance of 1-acre or more. A SWPPP shall comply with NYSDEC requirements for stormwater discharges from construction activities.
 - dd. It shall be at the discretion of the Planning Board as to whether a SWPPP shall be required for disturbances of less than 1-acre and which are not otherwise subject to such regulations.
 - ee. Other elements or information integral to the proposed development as considered necessary by the Planning Board.
 - ff. Environmental Assessment Form with Part 1 completed.
- 6. Waivers.** If the Planning Board finds that any of the information requirements as set forth above are not necessary to conduct an informed review, it may waive such information requirements as it deems appropriate. The Planning Board may grant such waivers on its own initiative or at the written request (that sets forth the specific requirements that are requested to be waived and the reasons for the requested waiver) of an applicant.
- 7. Review of site plan.** The Planning Board shall review the site plan to promote the health, safety, and general welfare of the Town and its citizens. The review shall include, as appropriate, but is not limited to, the criteria set forth in this Chapter for such as well as the following general considerations:
- a. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs. Signs and lights will be compatible and in scale with building elements and will not dominate the overall visual impact of the project and neighborhood.
 - b. If outdoor lighting is provided, all lighting shall be so located as not to be visible at the source from any adjoining property.
 - c. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - d. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - e. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - f. Adequacy of storm water and drainage facilities.
 - g. Adequacy of water supply and sewage disposal facilities.
 - h. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of the existing vegetation.
 - i. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - j. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

- k. Adequacy of open space areas, if any, for its intended use.
- l. Protection of adjacent or neighboring properties against noise, glare, unsightliness, odors, smoke, dust or other objectionable features.
- m. Adequacy of setbacks in regard to achieving maximum compatibility and protection to adjacent properties and residential districts.
- n. Compatibility of structures with existing and planned uses of adjacent properties.
- o. Consistency with Town Master Plan.

8. Planning Board Action on Site Plan.

- a. **Discretion to Schedule Public Hearing.** The Planning Board has the discretion to hold a public hearing on the application if the Planning Board determines that there are factors involved (such as but not limited to potential public controversy, the desirability of input from adjoining property owners or the public at large) that warrant a public hearing.
- b. **No Public Hearing.** If no public hearing is scheduled by the Planning Board for the receipt of public comments regarding the site plan, the Planning Board shall render a decision, file said decision with the Town Clerk, and mail such decision to the applicant with a copy to the CEO within 62 days of the acceptance of a completed application for site plan approval.
- c. **Public Hearing.** If the Planning Board determines to hold a hearing, it shall be held within 62 days of the receipt of a complete application and the decision on the site plan shall be made within 62 days from the close of the public hearing.
- d. **Extension of Decision.** The time within which to hold a public hearing or which a decision shall be rendered may be extended by mutual consent of the applicant and Planning Board.
- e. **Issuance of Permit.** Upon approval of the site plan, the CEO has the authority to issue a Zoning Permit provided any predevelopment conditions have been met and to issue a Certificate of Compliance upon completion of the development of the site in strict accordance with the approved site plan and any conditions attached thereto
- f. **Disapproval of Site Plan.** Upon disapproval of a site plan, the Planning Board shall so inform the CEO and the CEO shall deny a zoning permit to the applicant. The Planning Board shall also notify the applicant in writing, within 5 business days, of its decision and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk.

9. Notice and Hearing.

- a. The Planning Board shall hold a public hearing on a complete Site Plan application within 62 days from the determination of the Planning Board that the application is complete and that a hearing is appropriate. The time in which a public hearing shall be held may be lengthened only upon consent of the Applicant and Planning Board.

- b. At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper and by mailing a notice, by first class mail, thereof to all adjoining property owners and to any other owners of property located within 200 feet from the parcel for which the site plan is proposed. The Planning Board may notify other owners of other parcels as it deems appropriate.
- c. In the case of a hearing held on an application on a property that is located within 500 feet of an adjacent municipality, the Planning Board shall give notice of the hearing to the clerk of the adjacent municipality, by either mail or electronic transmission, at least 10 days prior to the hearing pursuant to General Municipal Law § 239-nn.

10. Reimbursable Costs.

- a. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan as well as its implementation and inspection shall be charged to the applicant.

11. Performance Guarantee.

- a. No Certificate of Compliance shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Planning Board and it may consult with the CEO, Town Attorney and other appropriate parties in making such determination.

12. Inspection of Improvements.

- a. The CEO shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and other officials and agencies, as appropriate. If the site is not being developed in strict compliance with the approved site plan and any conditions attached thereto, the CEO shall issue a stop work order and demand compliance with the approved site plan and any conditions attached thereto. An approved site plan may not be modified except by the Planning Board upon application for such modification from the applicant.

13. Integration of Procedures.

- a. Whenever the particular circumstances of proposed development require compliance with either the special use permit procedure in this Chapter or other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

14. Application for Area Variance.

- a. Where a proposed Site Plan contains one or more features that do not comply with the dimensional regulations of this local law, application may be made to the Zoning Board of Appeals (ZBA) for an area variance pursuant to this Code without a decision or determination by the CEO. The Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on same shall occur as a condition to the approval of the site plan, as a prerequisite for a complete site plan application, or in conjunction with the site plan process.

15. SEQOR Compliance.

- a. Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review (SEQOR) process (unless the process has been already commenced pursuant to the Special Use Permit process for the same project) by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days of its acceptance of a completed application, EAF and other supporting materials. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this local law shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation Regulations or the issuance of a negative declaration.

16. Referral to County Planning Board.

- a. §239-m of the General Municipal Law shall be adhered to.

17. Agriculture Data Statement.

- a. An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of an agricultural district. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Site Plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

D. Guidelines:

1. The Planning Board, in reviewing site plans, shall consider the guidelines set forth below.

a. Layout and Design.

1. All structures in the plan shall be integrated with each other and with adjacent structures, shall have convenient pedestrian and vehicular access to and from adjacent

- properties, and shall, wherever possible, be laid out in a pattern consistent with the traditional forms found in the Town of Perth.
2. Individual structures on the site shall be compatible with each other and with traditional structures in the surrounding area in architecture, design, massing, materials, and placement.
 3. Where feasible, setbacks shall maintain and continue the existing setback pattern of surrounding properties.
 4. The Planning Board shall encourage the creation of landscaped parks or plazas easily accessible by pedestrians.

b. Landscaping.

1. Landscaping shall be an integral part of the entire project area, and shall buffer the site from and/or integrate the site with the surrounding area, as appropriate.
2. Primary landscape treatment shall consist of shrubs, ground cover, and shade trees, and shall combine with appropriate walks and street surfaces to provide an attractive development pattern. Landscape plants selected should be appropriate to the growing conditions of the Town's environment.
3. Where feasible, existing trees and other vegetation shall be conserved and integrated into the landscape design plan.
4. If deemed appropriate for the site by the Planning Board, shade trees at least six feet tall shall be planted and maintained at 25- to 50-foot intervals along roads, at a setback distance acceptable to the Town Highway Superintendent.

c. Parking, Circulation, and Loading.

1. Roads, driveways, sidewalks, off-street parking, and loading space shall be safe, and shall encourage pedestrian movement.
2. Vehicular and pedestrian connections between adjacent sites shall be provided to encourage pedestrian use and to minimize traffic entering existing roads. The construction of service roads and new public streets to connect adjoining properties shall be required by the Planning Board, where appropriate.
3. Off-street parking and loading requirements of this Chapter shall be complied with, and parking areas shall be located behind buildings wherever possible.
4. Access from and egress to public highways shall be approved by the appropriate Highway Department, including Town, County, State, and Federal, to the extent that said Highway Department or Departments have jurisdiction over such access.
5. All structures shall be accessible by emergency vehicles.

d. Miscellaneous Standards.

1. Materials and design of paving, light fixtures, retaining walls, fences, curbs, benches, etc., shall be attractive and easily maintained.
2. The site lighting shall limit glare on adjacent roads and properties.

3. Drainage of the site shall recharge ground water to the extent practical. Surface waters flowing off-site shall not degrade any streams or adversely affect drainage on adjacent properties or public roads.
4. Dispersal of construction and demolition wastes shall meet all applicable local, county, state, and federal requirements.

e. Reservation of Parkland.

1. For any site plan containing residential units, the Planning Board may require the reservation of parkland or payment of a recreation fee pursuant to NYS Town Law, Section 274-a(6), or its successor legislation.

E. Action:

1. The Planning Board shall approve, approve with modifications, or disapprove the Site Plan within 62 days after the determination by the Planning Board that the Site Plan and accompanying application is complete, or if a public hearing has been held, within 62 days after the close of the public hearing. Any decision by the Planning Board shall contain written findings explaining the rationale for the decision in light of the standards or guidelines contained in this Chapter.
2. In approving a Site Plan, with or without modifications, the Planning Board may impose conditions which it considers necessary to protect the health, safety, and welfare of the Town and to achieve the purposes contained in this Chapter. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conservation value using conservation easements, and requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

F. Expiration, Change of Use, Revocation, and Enforcement:

1. An approved Site Plan shall expire if:
 - a. The Site Plan use or uses cease for any reason for more than 12 consecutive months;
 - b. The applicant fails to obtain the necessary building permit within 24 months of Site Plan approval; or
 - c. The applicant fails to comply with the conditions of the Site Plan.
2. A Site Plan shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Site Plan (as determined by the CEO in issuing a Zoning Permit or Certificate of Compliance) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by Site Plan shall require the granting of a new Site Plan or an amendment.

3. A Site Plan approval may be revoked by the CEO if the applicant or the applicant's successor or assign violates the conditions of the Site Plan approval or engages in any construction or alteration not authorized by the Site Plan approval.
4. Any violation of the conditions of a Site Plan shall be deemed a violation of this local law, and shall be subject to enforcement action as provided herein.

G. Findings Required:

1. In approving or disapproving Site Plans, the Planning Board shall take into consideration the type, scale and intensity of the proposed project, the surrounding area, the possible impact of the proposed project on nearby properties and uses, the requirements and purposes of this law and the policies and goals of the Comprehensive Plan. The Planning Board shall set forth its findings in writing as part of its decision-making process.

H. Filing of Decision:

1. The written decision of the Planning Board on an application for site plan review shall be filed within five days from the date the decision was rendered in the office of the Town Clerk, with the CEO and a copy mailed to the applicant. The site plans shall be signed as approved by the Chairman of the Planning Board and filed and mailed together with the decision.

I. Amendments:

1. The terms and conditions of any Site Plan approval may be amended in the same manner as required to approve a site plan, following the criteria and procedures in this Article. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a site plan amendment.

ARTICLE 11 - PARKING

- A. **Intent and Purpose.** The Town of Perth seeks to foster the construction of parking lots that promote the safety of both pedestrians and vehicles, that create a better experience for the Town and its businesses for people walking between destinations, and that minimizes or avoids adverse impacts to the natural environment of the Town. This article also provides for the orderly and safe conduct of business and appropriate access to the site for emergency vehicles. The Town recognizes that the conventional approach to parking lot design typified by unused expanses of asphalt is unsightly and inefficient use of land and undermines the desired character of the Town. As such, it is also the intent of this article to minimize such inefficiencies by providing a greater range of shared parking and maintenance options.
- B. **Applicability.** Adherence to this article shall be required for all uses constructed, extended and enlarged in use after the effective date of this chapter.
- C. **Parking Space Area.** Each parking space, exclusive of circulation area, shall be at least 180 sq. ft. in size and no more than 200 square feet and shall be no larger than 10 feet wide by 20 feet long (Note: All ADA requirements shall apply).
- D. **Orientation.** Parking lots shall be placed behind or to the side of buildings as measured from the façade facing the primary road right of way.
- E. **Residential Screening.** All parking areas shall be screened from adjoining residential areas by natural landscaping and consisting of preferably evergreen species.
- F. **Parking lot lighting.** All lighting fixtures shall be fully shielded light fixtures.
- G. **Target number of parking spaces.** Parking spaces shall be provided as shown in Schedule B: Town of Perth Parking Standards.
 - 1. **Fewer spaces allowed.** The Planning Board, at its discretion, may allow for fewer spaces than prescribed in the Parking Schedule. This is desirable as long as the resulting number of spaces meets the intent of this article and provides a reliable basis for orderly development and satisfactory provision of parking.

ARTICLE 12 – SIGNAGE

- A. **Purpose.** The purpose of this Article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor signs of all types. Regulations governing signage are intended to protect property values, create a more attractive economic and business environment, enhance and protect the physical appearance of the community, preserve the natural and rural beauty, and provide a more enjoyable and pleasing community. These regulations are intended to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space, and curb the deterioration of the community appearance and attractiveness. The location, size, materials, and method of construction of signs affect the character of the community. The Town of Perth seeks to promote attractive signs that clearly present the sign message in a manner that is compatible with their surroundings, and signs should, therefore convey their messages clearly and simply to enhance their surroundings.
- B. **Compliance.** The size, type and location of any sign or advertising device shall be in accordance with the following regulations:
1. **Noncommercial Signs.** Noncommercial signs are allowed in all districts and may be substituted for any sign expressly allowed under this law.
 2. **Signs for A-R Districts**
 - a. **Nameplates.** Nameplates and identification signs indicating the name and address of the occupant or permitted home occupation in any residence shall be permitted, provided that such signs shall not exceed 2 square feet in area and shall not emit any flashing or intermittent illumination.
 - b. **Institutional Signs.** Signs for institutions such as schools, places of worship, hospitals or other public and semipublic institutions shall be permitted, provided that such signs shall not be greater than 30 square feet in area and shall not emit any flashing or intermittent illumination.
 - c. **Business Signs.** Business signs pertaining to permitted uses or to a legal nonconforming use of the premises on which it is located shall be permitted, provided that such signs shall not exceed 32 square feet in area and shall not emit any flashing or intermittent illumination. No dimension of the business sign shall exceed 8 feet.
 - d. **Temporary Signs.** Temporary signs such as advertising the sale, rental, construction or improvement of the premises on which they are located shall be permitted, provided that such signs shall not exceed 6 square feet in area and shall not be illuminated, and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply.
 - e. **Off-Premise Signs Prohibited.** Signs advertising functions, uses, products or services not pertaining to the premises on which they are located shall not be permitted in any A-R Agricultural Residential District, except for Temporary Signs as defined in this Chapter.

3. Signs in C-R Commercial-Residential Districts.

- a. Signs permitted in A-R Agricultural Residential Districts
- b. **Business Signs.** Signs located on the premise of an establishment and signifying a product or service on the premises on which they are located shall be permitted, provided that the aggregate area of all signs on the premises shall not be greater than 3 square feet for each foot of frontage actually occupied by such use, building or parking area, but not exceeding 200 square feet of aggregate sign area.
- c. **Temporary Signs.** Temporary signs advertising the sale, rental, construction or improvement of the premises on which they are located shall be permitted, provided that such signs shall not exceed 40 square feet in area and shall not be illuminated, and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply.
- d. **Off Premise Signs.** Signs pertaining to functions, uses, products or services whether or not pertaining to the premises on which they are located, shall be permitted, provided that such signs shall not exceed 300 square feet in area and shall not direct any source of illumination toward any public street or adjacent residential property.

4. Public Institutional Zone.

- a. **Institutional Signs.** Signs for institutions such as schools, places of worship, hospitals or other public and semipublic institutions shall be permitted, provided that such signs shall not be greater than 30 square feet in area and shall not emit any flashing or intermittent illumination.

5. Signs in Business and Technology Zone (BTZ).

See Article 5 (BTZ).

6. Signs – General Regulations.

- a. **Number of Signs.** Exclusive of directional signs, the number of signs permitted on any single parcel shall not exceed 3 per establishment. In no case shall the number of freestanding signs exceed 1.
- b. **Well Maintained.** Signs shall be constructed of durable materials and shall be kept visibly free of cracks, kinks or bends, corrosion, rot, peeling paint and other evidence of fatigue and excessive wear and tear. Signs, which are permitted to deteriorate, shall be removed at the owner's expense upon direction of the CEO (CEO) following notification to the owner. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and individually liable to maintain such sign, including its illumination sources, in a neat and orderly condition.

- c. **Measuring Sign Area.** Unless otherwise prescribed herein, sign area shall be calculated by measuring the outer frame of the sign face. Any support structure shall be excluded from the calculation, unless to the average observer and that by design or construction the support itself appears to direct attention.
1. **Wall Signs.** For wall signs and signs painted on walls, the area shall be calculated by measuring the area contained within a hypothetical and continuous perimeter drawn around words, emblems, and logos that constitute the sign. Such perimeter shall be non-intersecting, except where two end-points meet to create an enclosed perimeter, and shall contain 8 or fewer vertices, and shall be rendered in a manner that results in the smallest calculable area for a proposed or existing sign.
 2. **Painted Exterior Walls.** Expanses of uniform color painted on a wall that extends to all or most edges of that exterior wall and is accompanied by sign copy, even in cases where the color may be construed to be part of the sign, may be excluded from sign area calculation except for the portion of such area enclosed within the perimeter drawn around the ostensible sign copy.
- d. **Attached Signs, Maximum Height.** No sign shall be higher than the building to which it is attached.
- e. **Removal of Hazardous Signs.** No sign shall be erected which, in the opinion of the Town CEO, may cause hazardous or unsafe conditions. Such signs shall be removed upon direction of the Town CEO following notification to the owner, unless such sign is erected within a public right of way.
- f. **Signs in right-of-way.** No sign, other than an official traffic or public information sign, shall be erected or project within the right-of-way line of any public street.
- g. **Direction of Illumination.** No sign shall have a source of illumination directed toward a public street or adjacent property.
- h. **Steady Illumination.** Sign illumination shall be steady, regardless of changes to sign copy.
- i. **Motion.** Any sign permitted by this Article shall not rotate, rock, or otherwise move, and shall not contain sign copy that is flashing, scrolling, or projected.
- j. **Wall Signs, additional standards.** In addition to other applicable requirements, wall signs shall comply with the following standards
1. The sign structure shall not protrude beyond the outer edge of any wall of the building to which it is attached.
 2. The sign structure shall not project above the eaves of the building to which it is attached.
 3. The sign structure shall be plumb and level.

- k. **Maximum Height.** No freestanding sign shall exceed 12 feet in height in A-R-District. No freestanding sign shall exceed 20 feet in height in C-Districts.
- l. **Changes to Sign Copy.** Signs shall display no more than 4 changes daily to sign copy, excluding displays of time, temperature, or price.
- m. **Non-conforming signs.** Signs existing on the effective date of this Law, which do not conform to the regulations set forth in this Law, are a non-conforming use.
1. All pre-existing non-conforming signs shall comply with the standards and requirements of this Chapter at the time when the sign's structural features are more than 30 percent replaced or repaired at any one time, or when a change in use or business has occurred on the premise. Any sign not expressly permitted by this Chapter shall be considered non-conforming and removed.
 2. Changes to sign copy (where the sign copy is not materially embodied in the sign structure) or the routine maintenance of structural elements of non-conforming signs shall by itself not be considered a replacement or alteration compelling compliance with this Chapter.
 3. A sign recognized as a contributing historical element of a federal, state, or local registered historical landmark shall not be deemed non-conforming by the Town.
- n. **Abandonment.** Any sign freestanding or affixed sign which advertises or identified products, businesses, services or activities which have not been sold, located or carried on at the premises for at least sixty days may be deemed abandoned by the CEO. The owner shall remove the sign within ten days of notification of a finding of abandonment.
- o. **Design guidelines.** In order to promote harmonious design and preserve community character, owners of signs subject to this Article should observe the following guidelines:
1. Signs and sign copy should relate with and not cover architectural features or details, and should be in proportion to them
 2. Groups of related signs or multiple signs located on the same premises should express visual uniformity and create a sense of harmonious appearance.

ARTICLE 13 – SOLAR FARMS

- A. **Purpose.** The requirements of this section are established for the purpose of allowing the development of solar farms in the Town and to provide standards for the placement, design, construction, operation, monitoring, modification and removal of these systems.
- B. **Applicability.** The standards found in this section are applicable to “Solar Farms” as defined in Article 2 of this Zoning Ordinance. The term “Solar Farm” shall not be construed to include, so as to prohibit, or have the effect of prohibiting, the installation of a solar collector that gathers solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating or generating electricity for a residential property. The term “Solar Farm” shall also not be construed in such a way as to prohibit the installation or mounting of a series of one (1) or more solar collectors upon the roofs of residential and/or commercial structures regardless of whether the said series of one (1) or more solar collectors collectively has a total nameplate generation of at least 15 kilowatts (kw) direct current (dc) or more when operating at maximum efficiency.
- C. **Application Information.**
1. Blueprints or drawings of the solar photovoltaic installation signed by a licensed Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
 2. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 3. A description of the solar farm facility and the technical, economic and other reasons for the proposed location and design shall be prepared and signed by a licensed professional engineer.
 4. Confirmation prepared and signed by a licensed professional engineer that the solar farm complies with all applicable Federal and State standards.
 5. One or three line electrical diagram detailing the solar farm layout, solar collector installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices.
 6. Documentation of the major system components to be used, including the photovoltaic (PV) panels, mounting system, and inverter.
 7. An operation and maintenance plan which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
 8. Information on noise (Inverter) and reflectivity/glare of solar panels and identify potential impacts to abutters.

D. **Minimum Requirements.** In any district that requires a Special Use Permit for a Solar Farm, the development shall conform to the following standards which shall be regarded as minimum requirements:

1. Solar Farms of less than 26 (kW) shall be on a parcel of not less than five (5) acres, otherwise a minimum of (10) acre parcel shall be required.
2. All ground-mounted panels shall not exceed eight (8) feet in height.
3. All mechanical equipment on a Solar Farm, including any structure for batteries or storage cells, are completely enclosed by a minimum 8' high fence with a self-locking gate.
4. The total surface area of all ground-mounted and freestanding solar collectors, including solar voltaic cells, panels and arrays, shall not exceed 80% of the total parcel area.
5. The installation of a vegetated perimeter buffer to provide year round screening of the system from adjacent properties.
6. Because of neighborhood characteristics and topography, the Planning Board shall examine the proposed location on a case by case basis. Ensuring the potential impact to its residents, business or traffic are not a detriment.
7. All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings, as well as streets and rights-of-way.
8. All onsite utility and transmission lines are, to the extent feasible, placed underground.
9. The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
10. The system is designed and situated to be compatible with the existing uses on adjacent and nearby properties.
11. All solar energy system components shall have a 50 foot setback, unless abutting residential uses. Whereby it shall be located a minimum of 200' from property lines.
12. Solar modular panels shall not contain hazardous materials.
13. All appurtenant structures including but not limited to equipment shelters, storage facilities, transformers and substations shall be architecturally compatible with each other and shall be screened from the view of persons not on the parcel.
14. Lighting of "Solar Farms" shall be consistent with state and federal law. Lighting of appurtenant structures shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

15. There shall be no signs except announcement signs, such as no trespassing signs or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a 24-hour basis.
16. There shall be a minimum of one (1) parking space to be used in connection with the maintenance of the solar photovoltaic facility and the site. However, it shall not be used for the permanent storage of vehicles.

E. Additional Conditions.

1. The solar farm owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar farm facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
2. No solar farm shall be approved or constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar farm owner's or operator's intent to install an interconnected customer-owned generator.
3. A solar farm owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar farm and any access road(s), unless accepted as a public way.
4. A valid performance bond assigned to the Town of Perth for 10 acre systems with dates and monetary amounts to be determined by the planning board for decommissioning purposes.

F. Decommissioning/Removal. All applications for a solar farm shall be accompanied by a Decommissioning Plan to be implemented upon abandonment and/or in conjunction with removal of the facility. Prior to removal of the solar farm, a permit for removal activities shall be obtained from the Code Enforcement Department. The Decommissioning Plan shall include the following provisions:

1. The owner, operator, his successors in interest shall remove any ground-mounted solar collectors which have reached the end of their useful life or have been abandoned. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Town CEO by certified mail of the proposed date of discontinued operations and plans for removal.
2. Physical removal of all ground-mounted solar collectors, structures, equipment, security barriers and transmission lines from the site.

3. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
4. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
5. Absent notice of a proposed date of decommissioning and written notice of extenuating circumstances, the solar farm shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the solar farm fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.

G. **Estimate and Financial Surety.** In addition to the Decommissioning Plan, the applicant shall also provide an estimate, prepared by a qualified engineer, setting forth the costs associated with decommissioning the solar farm at issue. In the event the Planning Board grants a Special Use Permit pursuant to this Chapter, it must also establish the amount of such surety to be established by the applicant prior to building permit issuance. The surety may be in the form of escrowed funds, bonds or otherwise, but it is the intention of this provision to ensure that the Town has sufficient funds available to remove the installations and restore landscaping consistent with Section F above, in the event the applicant fails to comply with its decommissioning obligations.

ARTICLE 14 – ADULT USE BUSINESSES

A. **Findings.** Based upon a comprehensive study of the adverse secondary impacts of adult use establishments as documented in accordance with the ruling of the U.S. Supreme Court in the matter of the City of Renton v. Playtime Theaters, Inc. (475 U.S. 41), Stringfellow’s of New York, Ltd. V. The City of New York, 91 NY2d 382 (1998) and commissioned by the Town Board of the Town of Perth, the Town of Perth finds that:

1. There are adverse secondary impacts associated with the establishment and operation of adult-oriented businesses within a community.
2. Among these adverse secondary impacts are a deterioration in the local quality of life, an adverse effect upon local property values, an adverse effect upon local economic viability, an imposition, whether intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby, an increase in traffic, noise, litter and nuisance, criminal and illicit sexual behavior, a threat to the health and safety of children and young adults and an undermining of the established sense of community.
3. These adverse secondary impacts of the establishment and operation of adult-oriented businesses are a threat to the general health, safety and economic viability of the community.
4. The unregulated establishment and operation of adult-oriented businesses would lead to the wide-spread imposition of adverse secondary impacts upon the residents, businesses, economic viability, property values, and quality of life of the Town and would, therefore, be detrimental to the general health, safety and economic viability of the community.
5. The U.S. Constitution, and the Constitution and laws of the State of New York grant to the Town of Perth the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of adult-oriented businesses, hereinafter defined, in order to protect the general health, safety and economic viability of the community.

B. **Statement of Intent.**

1. It is the express intent of the Town of Perth in adopting this local law to:
 - a. Ameliorate, mitigate, reduce or prevent the wide-spread and unregulated imposition of the adverse secondary impacts of adult-oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community.
 - b. To protect the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

2. It is not the intent of the Town of Perth in adopting this local law to:

- a. Deny any person the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses; or
- b. To impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Town under the U.S. Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and a manner of that free expression. These constitutionally protected rights are understood to include the right to sell, distribute and exhibit the legal goods and services offered by adult-oriented businesses;
- c. To impose upon any person any additional limitations or restrictions upon the right to obtain, view and partake of any communications guaranteed by the U.S. Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the Town under the U.S. Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression; or
- d. To estimate, decide, determine, resolve, consider, conclude, judge or qualify in any manner or fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the U.S. Constitution and the New York Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

Aware that, according to numerous decisions by both Federal Courts and Courts of the State of New York, the regulation of the location of adult businesses must be based upon a finding of the adverse secondary impact of these businesses upon the community and must be directly solely toward the mitigation of these impacts, not be directed toward any form of speech or expression, be no broader than necessary and must provide alternative locations within the Town for adult use businesses, the Town of Perth hereby adopts the following amendment to its Zoning Law:

C. **Definitions.** For the purpose of this Town Law, an adult use business shall be defined as any business which:

1. Is the use of land, structures or location for an “adult use business” or as an “adult physical contact establishment” as herein defined.
2. Is the use of land, structure or location which, by the provisions of the Penal Law, is required to restrict the access thereto by minors.
3. Which is an establishment, location, building or structure which features topless dancers, nude dancers or strippers, male or female.

4. Which is a location, building or structure used for presenting, lending or selling motion picture films, video cassettes, cable television or any other such visual media, or used for presenting, lending or selling books, magazines, publications, photographs or any other written materials distinguished or characterized by an emphasis of matter depicting, describing or relating to 'specific sexual activities' or 'specific anatomical areas' as defined below.

5. Adult Use Businesses:

Adult use businesses, including adult book stores, adult video stores, adult motion picture theaters, adult mini-motion picture theaters, adult cabarets, and adult drive-in theaters shall be defined as follows:

- a. An adult book store is defined as an establishment having a substantial or significant portion of its stock in trade books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to 'specific sexual activities' or 'specific anatomical areas' as defined below.
- b. An adult video store is defined as an establishment having as a substantial or significant portion of its stock in trade films, video cassettes or other formats of electronic media for sale or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to 'specific sexual activities' or 'specific anatomical areas' as defined below.
- c. An adult motion picture theater is defined as a building with a capacity of fifty (50) persons or more used for presenting material distinguished or characterized by their emphasis on matter depicting, describing or relating to 'specific sexual activities' or 'specific anatomical areas' as defined below for the observation of patrons therein.
- d. An adult min-motion picture theater is defined as an enclosed building with a capacity of less than fifty (50) persons used for presenting material distinguished or characterized by their emphasis on matter depicting, describing or relating to 'specific sexual activities' or 'specific anatomical areas' as defined below for the observation of patrons therein.
- e. An adult cabaret is defined as an establishment which features live go-go dancers, exotic dancers, strippers, male or female, male or female impersonators or similar entertainers whose performances are characterized by partial or full nudity.
- f. An adult drive-in theater is a drive-in theater utilized for the presentation of materials distinguished or characterized by their emphasis on matter depicting, describing or relating to 'specific sexual activities' or 'specific anatomical areas' as defined below for the observation of patrons therein.
- g. An adult physical contact establishment is defined as any establishment, which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices, offices of persons licensed or authorized under the Education Law to practice massage therapy, offices of persons licensed or otherwise authorized by the Education Law as a physical therapist or physical therapist assistant and electrolysis, karate, judo and dance studios are not to be considered adult physical contact establishments under this section.
- h. As used hereinabove, the words "having a substantial or significant portion of its stock in trade" shall mean that such establishment devotes more than twenty-five (25%) percent of its business to the sale, rental or display of adult materials as determined by any of the following:

1. The number of different titles of adult materials, or
2. The number of different copies of adult materials, or
3. The amount of floor space devoted to adult materials, or
4. The amount of onsite advertising or cost of other advertising of adult materials.
5. As used above, the words “adult materials” shall include any things referred to or labeled as sex toys or sexual novelty items.

6. Specified sexual activities:

- a. Human genitals in a state of sexual stimulation or arousal; or
- b. Acts of human masturbation, sexual intercourse or sodomy; or
- c. Fondling or other erotic touching of human genitals, public regions, buttocks or female breast.

7. Specified anatomical areas:

- a. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola; or
- b. Human male genitals in a discernible turgid state, even if completely or opaquely covered.

D. **C-R (AU) District.** An overlay zone is hereby established for adult use businesses within a portion of the Commercial-Residential District and shall be known as the C-R (AU) Zone as shown on the Town zoning map. The boundaries of the overlay zone are those parcels that are cross hatched within the C-R District on the Town Zoning Map. All zoning requirements of the C-R District, which are not superseded herein, shall apply to the C-R (AU) Zone.

E. **Adult Use Businesses – Locational Requirements:**

1. Any private booths or areas within such Adult Use Businesses, either for the viewing of motion pictures or live performances, shall be subject to the following requirements:
 - a. Any and all such booths, cubicles, studios, studies and rooms for the private viewing of adult motion pictures and/or live performances or areas shall be open to public view from the common areas of the establishment and that there not be any doors, curtains, blinds or other structures or devices that shall obstruct observation of the viewing areas from the common area of the establishment.
 - b. That such private viewing areas be well lighted and readily accessible at all times and shall continuously be open to view.
 - c. Lighting throughout the adult establishment shall be sufficient to illuminate every area which patrons are permitted access.
2. All Adult Use Businesses shall be conducted in an enclosed building. It shall be a violation to display or exhibit in the open air (outside of the establishment) through a window, or by means of a depiction or decoration, or to allow to be displayed or exhibited, any Specified Anatomical Areas or Specified Sexual Activities.

3. The exterior appearance of any building containing an adult use business shall be consistent with the character of surrounding structures and shall not detract from the appearance of the neighborhood.
4. Adult use businesses shall conform with all existing applicable sign regulations in addition to the following specific requirements:
 - a. Signs which are illuminated in neon or which contain flashing lights shall be prohibited.
 - b. Exterior signs, displays or other advertisements which contain nude, semi-nude or provocative pictures or silhouettes shall be prohibited.
 - c. Interior signs, displays, posters or other advertisements which contain nude, semi-nude or provocative pictures shall be located a minimum of six (6) feet from any window or door, and shall not be visible from the exterior of the establishment.
 - d. Permanent and/or temporary window and door signs shall not occupy more than twenty percent (20%) of each window or door.
5. Adult use businesses shall be required to meet all zoning and construction standards and requirements of the laws of the Town of Perth, including, but not limited to, lot and bulk regulations, parking requirements, signage, façade and screening regulations.

- F. **Compliance.** Any person, corporation, firm, partnership or other entity which owns and/or operates an adult use business within the Town of Perth, prior to the effective date of this local law, which is not in compliance with the requirements set forth herein shall be allowed, for a period not to exceed one (1) year, to continue such business, during which time such adult use business shall arrange to comply with the requirements set forth herein. If, at the end of such period, such adult use business is not in full compliance with the requirements set forth herein, such adult use business shall cease and desist.
- G. **Violations.** Any violation of this Article shall be treated in the same manner as provided in Article 3 of the Town of Perth Zoning Law.
- H. **Severability.** Should any section or provision of this Article be declared to be unconstitutional or invalid by the Courts, such decision shall not affect the validity of the balance of this Article.

ARTICLE 15 – AMENDMENTS

A. **General:**

1. **Initiation.** The Town Board, from time to time, may amend the provisions of this Chapter, including the official Zoning Map, by local law as provided in this Article upon its own motion or petition by one or more property owners, or by resolution of the Planning Board or Zoning Board of Appeals that requests a specific amendment of this Chapter. A property owner may apply for amendment to this Chapter by filing seven complete sets of an application with the Town Clerk. The application shall include a petition requesting the Town Board to amend a particular provision or provisions of this Chapter and/or the Zoning Map, a description of requested amendment, identification and description of the property or properties affected, map showing the property or properties affected and all properties within a radius of 500 feet of the exterior boundaries thereof and the applicable filing fee. In the case of a requested amendment that does not apply to an amendment of the Zoning Map or otherwise affecting specific properties, no properties need be identified as affected.
2. **Referral to Planning Board.** The Town Board shall refer each requested amendment, no matter how initiated, to the Planning Board for a recommendation. No action shall be taken on the requested amendment referred to the Planning Board until its recommendation has been received by the Town Board, or 30 days have elapsed after such referral has been made, unless the Planning Board and Town Board agree to an extension beyond the 30-day requirement for the Planning Board's review and recommendation. The Town Board shall consider the Planning Board's recommendation but need not follow it.
3. **Referral to County Planning Board.**
 - a. **§239-m** Any proposed amendment affecting real property within 500 feet of the boundary of the Town of Perth, the boundary of any existing or proposed County or State park or other recreational area, the right-of-way of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, or the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated shall be referred to the Fulton County Planning Board before final action is taken pursuant to section 239-m of the General Municipal Law.
 - b. **County Planning Review.** No action shall be taken on proposals referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the full statement of the proposed amendment, unless the County Planning Department and the Town Board agree to an extension beyond the 30-day requirement for the County Planning Department's review.
 - c. **Required Votes.** If the County Planning Board recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.
4. **SEQR Compliance.** A proposed amendment to this Chapter shall constitute a Type I action under SEQR. Upon receipt of the petition and application materials that the Town Board deems complete (or upon the formal introduction of a proposed amendment made upon the Town Board's own initiative), the Town Board shall initiate the SEQR process. The SEQR process shall be initiated by either circulating the application and full Environmental Assessment Form

(“EAF”) to all involved agencies, if any, or by issuing its determination of significance within 20 days of its formal introduction of a proposed amendment made upon the Town Board’s own initiative or within 20 days of its acceptance of a completed petition and application, EAF and other supporting materials. Where the proposed action may have a significant effect on the environment, the Town Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making on any proposed amendment shall begin to run until either acceptance of a DEIS as satisfactory pursuant to NYSDEC regulations or the issuance of a negative declaration.

5. **Public Hearing and Notice.** No proposed amendment shall become effective until after a public hearing thereon, at which the public shall have an opportunity to be heard on the proposed amendment. The Town Board shall set, by resolution at a duly called meeting, the time and place for a public hearing on proposed amendments, and shall cause public notice to be published, posted and circulated as set forth below. If a proposed amendment is initiated by petition, the petitioner shall be responsible for the costs of publication and circulation of notice.
 - a. **Publication of Notice in Newspaper.** Notice of the time and place of the public hearing shall be published at least 10 days in advance of such hearing in the official newspaper. This notice shall provide a summary of the proposed amendment in such reasonable detail as will give adequate notice of its contents, indicating the place or places where copies of the proposed amendment may be examined and the time and place of the hearing.
 - b. **Notice to Adjacent Municipalities.** Written notice of any proposed amendment affecting property lying within 500 feet of an adjacent town shall be served in person or by mail upon the Clerk of such municipality at least 10 days prior to the date of public hearing. Representatives of neighboring municipalities receiving notification of a proposed amendment shall have the right to appear and be heard at the public hearing thereon, but shall not have the right to review by a court.
 - c. **Notice to Adjacent Property Owners.** Where a proposed amendment involves a rezoning of a particular parcel or parcels of property, written notice of any proposed amendment affecting such property shall be mailed to the owners of parcels of property adjacent to the property that is subject of the proposed rezoning.
 - d. **Other Notices.** Written notice of any proposed amendment affecting property lying within 500 feet of the following shall be served personally or by mail to each person or entity listed below:
 1. The property of a housing authority, erecting or owning a housing project authorized under the Public Housing Law, upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto.
 2. The boundary of the county, upon the clerk of the Board of Supervisors or other person performing like duties.
 3. The boundary of a state park or parkway, upon the Regional State Park Commission having jurisdiction over such state park or parkway.
6. **Adoption.** The Town Board may adopt, by local law, amendments to this Chapter by a majority vote of its membership, except in the case of local protest or disapproval by the County Planning Department as noted below.

7. **Local Protest.** The favorable vote of three-fourths (i.e., four) of the Town Board members shall be required for passage of any amendment which is subject to a written protest signed and acknowledged by 20% or more of the owners of land in any of the following areas:
 - a. The land area included in the proposed amendment.
 - b. The land area immediately adjacent to the land area subject to the proposed amendment to be changed and extending 100 feet from the land area that is subject to the amendment.
 - c. The land area directly opposite the area proposed to be changed and extending 100 feet from the road frontage of such opposite land.
8. **Consideration of Town Comprehensive Plan.** The Town Board, in deliberating on whether to adopt a proposed amendment to this Chapter, including but not limited to a proposed rezoning of a parcel or parcels of property or any modification to the Zoning Map, shall consider the proposed amendment in relation to the Comprehensive Plan and shall adopt the proposed amendment only if it is consistent and in accordance with the Comprehensive Plan.
9. **Effective Date.** Unless the amendment provides for a different effective date, each amendment adopted by the Town Board shall take effect when filed with the Secretary of State of the State of New York pursuant to the Municipal Home Rule Law of the State of New York.
10. **Right to Complete Project Inconsistent with Amendment.** Where a project for which a permit or approval has been lawfully issued would be rendered nonconforming by an amendment of this Chapter, such project shall have the right to be completed and to be awarded a certificate of compliance pursuant to the provisions in effect when the zoning permit or approval was issued only if, in the case of a project primarily involving a building, the foundation has been completed prior to the effective date of the amendment, and, in the case of a project not primarily involving a building, a substantial amount of construction has been completed prior to the effective date of the amendment.
11. **Intent to Supersede Certain Provisions of State Law.** To the extent that any of the provisions of this Article conflict with any provision of the laws of New York State, the Town Board intends to, and does supersede such provisions of State law pursuant to the home rule powers provided by the Municipal Home Rule Law. Such provisions include but are not limited to the following:
 - a. The requirement that signatures of protest petitions be acknowledged as required by subsection 7, “Local Protest,” above is a requirement not provided in Town Law § 265(1) and, to the extent that is inconsistent or in conflict with Town Law § 265(1), that section is hereby superseded.

SCHEDULE A
TOWN OF PERTH ZONING USE TABLE

LAND USE	ZONING DISTRICT			
	A-R	P	C-R	BTZ
Residential:				
Accessory Dwelling – Attached	P		P	
Accessory Dwelling – Detached	SUP		SUP	
Assisted Living Residence	SPR		SPR	
Bed & Breakfast	SUP		SUP	
Boarding/Rooming House	SUP			
Community Residence	p			
Country Inn	SPR		SPR	
Manufactured Home	P			
Manufactured Home Parks	SUP		SUP	
Multi-Family Dwelling, Condominium, Cooperative	SPR		SPR	SPR
Nursing/Convalescent Home	SPR		SPR	
Single Family Dwelling	P		P	P
Travel Trailer Park/Campground	SPR			
Two Family Dwelling/Duplex	P		P	
Commercial:				
Adult Uses			SUP	
Bakery, Retail	SUP		SUP	
Bakery, Wholesale	SPR		SPR	SPR
Banks/Credit Union			SPR	SPR
Banquet Hall	SUP		SPR	
Bar, Nightclub or Tavern	SUP		SUP	
Barber Shop/Beauty Salon	SUP		SUP	
Brewpub	SUP		SPR	SPR
Business Services	SUP		SPR	SPR
Commercial Fuel Sales, Storage and Distribution	SUP		SPR	
Commercial Recreation and Amusement			SPR	
Commercial Storage	SUP		SPR	
Convenience Store			SPR	
Dance Studio	SUP		SPR	
Daycare Center	SUP		SPR	SPR
Daycare, Family	P		P	
Daycare, Group Family	P		P	
Drive Inn Service Establishment			SUP	SUP
Firewood Cutting and Sales	SUP			
Flea Market	SUP	P	SUP	
Food and Beverage Manufacturing				SPR
Funeral Home	SUP		SPR	
Golf Course/Country Club	SPR			
Health Care Facility			SPR	SPR
Health Club/Fitness Center			SPR	SPR

P: Permitted Use

SPR: Site Plan Review

SUP: Special Use Permit

LAND USE	ZONING DISTRICT			
	A-R	P	C-R	BTZ
Home Occupation - Off-site Service	P		P	
Home Occupation - Onsite Service	SUP		P	
Hotel, Conference Center or Motel			SPR	SPR
Kennel	SUP			
Laundromat			SPR	
Microbrewery	SUP		SPR	SPR
Private Club or Lodge	SUP		SUP	
Professional Offices	SPR		SPR	SPR
Restaurant	SUP		SPR	SPR
Restaurant, Fast Food			SPR	SPR
Retail Store	SUP		SPR	
Retail Store, Household			SPR	
Shopping Center			SPR	
Tanning Studio	SUP		SUP	
Tattoo Parlor			SUP	
Theater			SPR	
Truck Stop			SPR	
Veterinary Hospital	SPR		SPR	
Wireless Communication Towers	SPR	SPR	SPR	SPR
Commercial Auto Services:				
Auto Body and Paint Shop	SUP		SPR	
Automobile Repair Service	SUP		SPR	
Automobile Rental/Leasing			SPR	
Auto Dealership			SPR	
Car Wash			SPR	
Equipment Sales and Rental			SPR	
Heavy Equipment Repair			SPR	
Small Engine Repair	SUP		SPR	
Recreational Vehicle Sales and Service			SPR	
Taxi Service			SPR	
Agricultural:				
Agricultural Distillery/Farm Winery*	SUP		SPR	SPR
Agricultural Processing Plant	SUP		SPR	
Agricultural Services	SUP		SUP	
Aquaculture Facility*	SUP		SPR	
* Shall not be subject to Special Permit conditions if property is located within a State-certified Agricultural District.				

P: Permitted Use
SPR: Site Plan Review
SUP: Special Use Permit

LAND USE	ZONING DISTRICT			
	A-R	P	C-R	BTZ
Co-generation facility as accessory use	SUP			
Concentrated Animal Feed Operation (CAFO)	SUP			
Farm	P			
Farm Stand	P	SUP	SUP	
Nursery	P			
Livestock or Auction Sale	SUP			
Riding Stable and Academy	SUP			
Industrial:				
Manufacturing			SPR	SPR
Minor Mining Operations	SUP			
Pharmaceutical Manufacturing				SPR
R&D, Engineering and Laboratory Uses			SPR	SPR
Sawmill	SPR			
Storage Yard for Forest Products	SUP			
Technology Business			SPR	SPR
Warehouse and Distribution Facilities			SPR	See Note
Note: Allowed as an Accessory Use.				

P: Permitted Use
 SPR: Site Plan Review
 SUP: Special Use Permit

LAND USE	ZONING DISTRICT			
	A-R	P	C-R	BTZ
Public Facilities/Institutional:				
Animal Pound or Shelter	SPR	SPR	SPR	
Cemetery		P		
Educational Facilities		SPR	SPR	SPR
Fire Station/EMS Station		SPR		
Government Administration Buildings		SPR		
Museum	SUP	SUP	SUP	
Public Outdoor Performance Venue		SPR		
Public Park/Playground		SPR		
Public Utility Structure or Use	SPR	SPR	SPR	
General:				
Accessory Structure	P	P	P	P
Accessory Use	P	P	P	P
Church	SPR	SPR		
Geothermal Energy System as Accessory Use	P	P	P	P
Mixed Use	See Note	See Note	See Note	See Note
Private Airport	SUP			
Signs - Off Premise **			SUP	
Signs - On Premise **	P/SPR	P/SPR	P/SPR	P/SPR
Small Wind Energy System	SUP	SUP	SUP	SUP
Solar Farm	SUP	SUP	SUP	SUP
Prohibited Uses:				
Cemetery, Pet				
Commercial Extraction				
Commercial Landfill				
Correctional Facilities				
Incinerators				
Junkyards				
Land Spreading				
Note. Uses allowed in each district may be combined as a mixed use. The specific review process for each use involved shall be followed. If there is a conflict in requirements between two or more uses, the most restrictive requirement shall apply.				
**Governed by standards outlined in Article 12 of this Law.				

P: Permitted Use
SPR: Site Plan Review
SUP: Special Use Permit

**SCHEDULE B
TOWN OF PERTH
PARKING STANDARDS**

LAND USE	
Residential:	
Accessory Dwelling - Attached	1.0 space per Dwelling Unit
Accessory Dwelling - Detached	1.0 space per Dwelling Unit
Assisted Living Residence	.5 spaces per Dwelling Unit
Bed & Breakfast	1 space per Guest Room plus 1 space per Dwelling Unit
Boarding/Rooming House	.5 spaces per room or bed to be rented
Community Residence	2.0 spaces per Dwelling Unit plus 1.0 per employee working during busiest shift
Country Inn	1 space per Guest Room plus one (1) space per employee working during the shift of greatest employment
Manufactured Home	2.0 spaces per Dwelling Unit
Manufactured Home Parks	2.0 spaces per site
Multi-Family Dwelling, Condominium, Cooperative	1.5 spaces per Dwelling Unit
Nursing/Convalescent Home	1 space for every 4 beds, where individual Dwelling Units are provided in the form of multi-family or other type of unit, 0.25 spaces for each room
Single Family Dwelling	2 spaces per Dwelling Unit
Travel Trailer Park/Campground	2.0 spaces per site
Two Family Dwelling/Duplex	2.0 spaces per Dwelling Unit
Commercial:	
Adult Uses	See Retail Store Theater or Bar, Nightclub or Tavern
Bakery, Retail	4 spaces per 1,000 sq. ft. of net floor area plus 1 per employee of largest shift
Bakery, Wholesale	1 space per 1,000 sq. ft. of gross floor area plus 1 per employee of largest shift
Banks/Credit Union	4 spaces per 1,000 sq. ft. of net floor area plus 1 per employee of largest shift
Banquet Hall	1 space per every+B85 2 persons of capacity
Bar, Nightclub or Tavern	1 space per 50 sq. ft. of gross floor area, plus 1 space per employee of the largest shift
Barber Shop/Beauty Salon	1 space per chair plus 2 per barber on largest shift
Brewpub	See Restaurant.
Business Services	4 spaces per 1,000 sq. ft. of net floor area
Commercial Fuel Sales, Storage and Distribution	1 per employee on largest shift, plus 2 per 2,000 sq. ft. of floor area
Commercial Recreation and Amusement	Planning Board will determine during Site Plan review
Commercial Storage	1 space per 75 units with a minimum of 3 spaces
Convenience Store	1 space per 200 sq. ft. of gross floor area plus 1 per employee on the largest shift
Dance Studio	1 per employee plus 1 per 4 students based on maximum occupancy
Daycare Center	1 per employee plus 1 per 10 children
Daycare, Family	1 space per 6 children plus spaces required for Dwelling Unit
Daycare, Group Family	Same as Daycare

Drive Inn Service Establishment	N/A
Firewood Cutting and Sales	N/A
Flea Market	1 space per 200 sq. ft. of sales area, plus 1 space for each separately rented sales space
Food and Beverage Manufacturing	See Article 5 BTZ
Funeral Home	1 per 3 persons up to the facility's occupancy limit
Golf Course/Country Club	2 spaces per hole plus 1 space for each employee, plus 1 space for each 4 seats in an Accessory Restaurant
Health Care Facility	Planning Board will determine during Site Plan review
Health Club/Fitness Center	1 space per 3 occupants based on maximum design capacity
LAND USE	
Home Occupation - Off-site Service	N/A
Home Occupation - Onsite Service	1 space for every 300 sq. ft. devoted to the business
Hotel, Conference Center or Motel	1 space per guest room plus 1 space for every 400 sq. ft. of banquet/meeting net floor area plus 1 space per four seats in any included restaurant or bar area
Kennel	1 space per 300 sq. ft. of gross floor area
Laundromat	4 spaces per 1,000 sq. ft. of net floor area
Microbrewery	1 space per 500 sq. ft. of gross floor area
Private Club or Lodge	1 space per 100 sq. ft. of gross floor area
Professional Offices	4 spaces per 1,000 sq. ft. of net floor area
Restaurant	1 space per 4 seats
Restaurant, Fast Food	1 space per 4 seats
Retail Store	4 spaces per 1,000 sq. ft. of net floor area
Retail Store, Household	4 spaces per 1,000 sq. ft. of net floor area
Shopping Center	Planning Board will determine during Site Plan review
Tanning Studio	1 space per tanning bed
Tattoo Parlor	2 spaces per tattoo or body piercing artist
Theater	1 space per 4 seats
Truck Stop	Planning Board will determine during Site Plan review
Veterinary Hospital	4 spaces per 1,000 sq. ft. of net floor area
Wireless Communication Towers	N/A
Commercial Auto Services:	
Auto Body and Paint Shop	3 spaces per service bay
Automobile Repair Service	3 spaces per service bay
Automobile Rental/Leasing	Planning Board will determine during Site Plan review
Auto Dealership	4 spaces per 1,000 sq. ft. of net floor area of indoor display space plus 1 space for every 2,500 sq. ft. of outdoor display area
Car Wash	1 space per employee on largest shift
Equipment Sales and Rental	Planning Board will determine during Site Plan review
Heavy Equipment Repair	Planning Board will determine during Site Plan review
Small Engine Repair	1 per employee plus 1 per 500 sq. ft. of gross floor area
Recreational Vehicle Sales and Service	Planning Board will determine during Site Plan review
Taxi Service	4 spaces per 1,000 sq. ft. of net floor area of any office plus sufficient space to store company vehicles

Agricultural:	
Agricultural Distillery/Farm Winery	1 space per employee working during largest shift
Agricultural Processing Plant	1 space per employee working during largest shift, plus 1 for every 250 sq. ft. gross retail space
Agricultural Services	Same as Processing Plant.
Aquaculture Facility	Off-street parking spaces must be available for every employee working during greatest employment, plus one (1) additional space for every 250 sq. ft. of gross retail space.
LAND USE	
Co-generation facility as accessory use	N/A
Concentrated Animal Feed Operation (CAFO)	Planning Board will determine during Special Permit Review
Farm	N/A
Farm Stand	5 spaces
Nursery	5 spaces plus 1 per 100 sq. ft. of sales on display area
Livestock or Auction Sale	Planning Board will determine during Special Permit Review
Riding Stable and Academy	Planning Board will determine during Special Permit Review
Industrial:	
Manufacturing	See Article 5 BTZ
Minor Mining Operations	N/A
Pharmaceutical Manufacturing	See Article 5 BTZ
R&D, Engineering and Laboratory Uses	See Article 5 BTZ
Sawmill	1 space for every 1,000 sq. ft. of production
Storage Yard for Forest Products	N/A
Technology Business	See Article 5 BTZ
Warehouse and Distribution Facilities	Planning Board will determine during Site Plan review
LAND USE	
Public Facilities/Institutional:	
Animal Pound or Shelter	4 spaces for every 1,000 sq. ft. of net floor area
Cemetery	N/A
Educational Facilities	Planning Board will determine during Site Plan review
Fire Station/EMS Station	Planning Board will determine during Site Plan review
Government Administration Buildings	Planning Board will determine during Site Plan review
Museum	1 space for every 250 sq. ft. of gross floor area
Public Outdoor Performance Venue	Planning Board will determine during Site Plan review
Public Park/Playground	Planning Board will determine during Site Plan review
Public Utility Structure or Use	N/A

General:	
Accessory Structure	N/A
Accessory Use	N/A
Church	1 space per 4 seats based on maximum occupancy
Private Airport	Planning Board will determine during Special Permit review

