



TABLE OF CONTENTS

ARTICLE I: TITLE, SCOPE AND PURPOSE, DISTRICT DEFINITIONS

A. Title.....	page I – 1
B. Scope.....	page I – 1
C. Enacting Clause and Purpose.....	page I – 1
D. Establishment Of Land Use Districts.....	page I - 2

ARTICLE II: AGRICULTURAL – RURAL RESIDENTIAL DISTRICT (A-R)

A. Statement Of District Purpose.....	page II – 1
B. General Performance Standards in the Agricultural-Rural Residential District.....	page II – 1
C. Off-Street Parking Standards.....	page II – 3
D. Land Use Impacts and Performance Standards	page II – 5
E. Density Standards in the Agricultural-Rural Residential District	page II - 9

ARTICLE III: COMMERCIAL-RESIDENTIAL DISTRICT (C-R)

A. Statement Of District Purpose.....	page III - 1
B. General Performance Standards in the Commercial-Residential District	page III - 1
C. Off-Street Parking Standards.....	page III - 3
D. Land Use Impacts and Performance Standards.....	page III - 5
E. Density Standards in the Commercial-Residential District	page III - 10



ARTICLE IV: SPECIAL USE PERMITS

A. Scope and Purposepage IV - 1

B. Standards Applicable to All Special Use Permits.....page IV - 1

C. Land Uses Subject to Additional Standards and Special Use Permits

- 1. Manufactured Home Communities.....page IV - 2
- 2. Telecommunications Facilities.....page IV - 8
- 3. Minor Mining Operations.....page IV - 15
- 4. Landspreading of Sewage Sludge or Biosolidspage IV - 16

D. Procedure for Special Use Permits.....page IV - 17

ARTICLE V: SITE PLAN REVIEW

A. Applicability.....page V - 1

B. Procedures and Standards.....page V - 1

C. Preliminary Site Plan.....page V - 3

D. Planning Board Review of Preliminary Site Plan.....page V - 5

E. Consultant Review.....page V - 6

F. Public Hearing.....page V - 6

G. Planning Board Action on Preliminary Site Plan.....page V - 7

H. Final Site Plan.....page V - 7

I. Planning Board Action on Final Site Plan.....page V - 8

J. Reimbursable Costs.....page V - 8

ARTICLE VI: PLANNED UNIT DEVELOPMENT

A. Scope and Purpose.....page VI - 1

B. Procedure.....page VI - 1

C. Development Guidelines for Planned Unit Developmentspage VI - 3

ARTICLE VII: NON-CONFORMING USES AND STRUCTURES

A. Continuation.....page VII - 1

B. Non-Conforming Uses.....page VII - 1

C. Non-Conforming Buildings or Structures.....page VII - 2

D. Non-Conforming Signs.....page VII - 2

E. Repairs and Maintenance.....page VII - 2

ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT

A. Code Enforcement Officer.....page VIII - 1

B. Permits and Certificates.....page VIII - 2

C. Required Inspections.....page VIII - 5

D. Violations.....page VIII - 6

ARTICLE IX: BOARD OF APPEALS

A. Creation, Appointment, and Organization.....page IX - 1

B. Powers and Duties

- 1. Appeal for Interpretation.....page IX - 2
- 2. Appeal for Variance.....page IX - 2
- 3. Area Variancespage IX - 3
- 4. Use Variancespage IX - 3
- 5. For All Variancespage IX - 4
- 6. Procedurepage IX - 5
- 7. Relief from Decisions of the Board of Appealspage IX - 6

ARTICLE X: PLANNING BOARD

A. Creation, Appointment, and Organizationpage X - 1

B. Powers and Dutiespage X - 2

ARTICLE XI: DEFINITIONS.....pages X1 - 1 through XI - 13

ARTICLE XII: AMENDMENTS

A. Generalpage XII – 1

B. Procedurepage XII - 1

C. Protest by Owners.....page XII - 3

D. Effective Date.....page XII - 3



ARTICLE XIII: INTERPRETATION AND APPLICATION

- A. Interpretation and Application.....page XIII - 1
- B. Separability.....page XIII - 1
- C. Violations.....page XIII - 1
- D. Effective Date.....page XIII - 1

ATTACHMENTS: following Article XIII

- Table 1: Definition of Impact Categories
- Table 2: Impact Categories by Regulatory Protections

ARTICLE I: TITLE, SCOPE AND PURPOSE, DISTRICT DEFINITIONS

A. TITLE

This local law shall be known and may be cited as “ The Zoning Law of the Town of Perth, New York”.

B. SCOPE

A local law regulating the use of land and the location, siting, alteration, maintenance, and occupancy of structures in the Town of Perth and for said purposes dividing the Town into districts.

C. ENACTING CLAUSE AND PURPOSE

This local law is enacted pursuant to Article 16 of the New York Town Law and Articles 2 and 3 of the New York Municipal Home Rule Law, to promote public health, safety, and the general welfare within the Town of Perth, specifically including the following additional purposes:

1. To allow for reasonable growth and development within the physical limitations of the land so as to assure adequate sites for housing, commercial activity, industry and public uses;
2. To facilitate the efficient and adequate provision of public facilities and services;
3. To promote pedestrian safety, efficient traffic circulation and adequate parking in order to support business activities in the Town;
4. To promote the design and use of land and buildings to maintain the integrity of existing neighborhoods and a sense of community;
5. To promote the retention and creation of local employment opportunities;
6. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of the land;
7. To enhance the appearance of the Town of Perth as a whole;
8. To allow the continued operation of non-conforming land uses and activities in the least conflicting manner.
9. To protect the natural resources, water resources, and agricultural and rural residential character of the Town.

D. ESTABLISHMENT OF LAND USE DISTRICTS

1. Establishment and Names

In order to fulfill the purposes of this Local law, the Town of Perth is divided into the following districts:

A-R: Agricultural-Rural Residential District

C-R: Commercial-Residential District

2. Land Use District Map

The boundaries of districts established by this Article are shown on the maps entitled "Zoning Map 1, Town of Perth, Fulton County, New York" and "Zoning Map 2, Town of Perth, Fulton County, New York", as adopted by the Town Board. The Zoning Maps, including all explanatory matter and amendments, are adopted as an integral part of this local law. Regardless of the existence of other printed copies of this map, which from time to time may be made or published, the official Zoning Maps, which shall be located in the office of the Town Clerk, shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town. The maps shall be available in the Town Clerk's office for the use and benefit of the public.

3. A copy of said Zoning Maps is and shall be attached to each copy of this local law.

4. Location of Districts and District Boundaries

a. A-R: Agricultural – Rural Residential District

The A-R: Agricultural – Rural Residential District shall encompass all land in the entire Town of Perth other than that area delineated as the C-R: Commercial-Residential District.

b. C-R: Commercial-Residential District

The C-R Commercial-Residential District shall include the land between two district boundary lines, one on each side of and parallel to the centerline of New York State Route 30 and located one thousand feet (1000 feet) from said centerline EXCEPT that properties fronting on roads other than New York State Route 30 and with no frontage on New York State Route 30 shall be included entirely within the A-R: Agricultural – Rural Residential District.

5. Interpretation of District Boundaries

In applying the provisions of this local law, the following guidelines shall be used to determine the location of district boundaries:

- a. Where a lot in the Commercial-Residential District extends no more than 50 feet beyond the Commercial-Residential district boundary line, the lot may, at the owner's discretion, be construed as entirely within the Commercial-Residential District.
- b. Where dimensions or district boundary lines are not clearly shown on the map, the location of such boundary lines shall be determined by the Zoning Board of Appeals, pursuant to Article IX of this local law.



ARTICLE II: AGRICULTURAL – RURAL RESIDENTIAL DISTRICT (A-R)

A. STATEMENT OF DISTRICT PURPOSE

The following statement of purpose defines the spirit and intent of the Agricultural – Rural Residential District (A-R) and is to be used as a guide in the interpretation and application of these regulations:

The purposes of the Agricultural – Rural Residential District, in priority order, are:

1. to maintain, encourage and enhance the agricultural endeavors practiced in the rural areas of the Town;
2. to protect, enhance and encourage the preservation of open space, scenic views, wildlife habitat, and other natural resources;
3. to provide the opportunity for residential development on properly serviced sites while maintaining the rural atmosphere and values of the community.
4. to provide for and encourage a mixture of housing types and opportunities throughout the rural areas of the Town of Perth;
5. to 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.

B. GENERAL PERFORMANCE STANDARDS IN THE AGRICULTURAL-RURAL RESIDENTIAL DISTRICT

The following general performance standards shall apply to all uses in the Agricultural – Rural Residential District:

1. All improvements, including buildings, accessory structures and/or septic system components shall be located no closer than 30 feet from the right-of-way of any public road or highway and no closer than 15 feet from any property line.
2. The total coverage area of all buildings and accessory structures, including both temporary and permanent buildings or structures, shall not exceed fifty percent (50%) of the area of the lot on which located.
3. No offensive or objectionable vibration, noise, or glare shall be noticeable at or beyond the property line.
4. No activity shall create a physical hazard by reason of potential for fire, explosion, radiation, or other such cause to persons or property in the same or an adjacent district.
5. No material of any nature which may contaminate any water supply shall be discharged into any stream or body of water or any public or private disposal system, or into or onto

=====

the ground surface.

6. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin or endangers health.
7. The emission of smoke, fly ash, dust, or other airborne material which can cause damage to the health of persons, animals, plant life, or to other forms of property is prohibited. This provision is not intended to regulate or prohibit the customary use of residential fireplaces, wood or coal burning stoves, residential barbecues or outdoor fireplaces, or smokehouses.
8. The location of all stored materials, equipment, equipment under repair, rubbish, dumpsters and related items shall be behind buildings unless screened from the public roads by fencing or landscaping.
9. Accessory Uses and Structures
 - a. Walls and fences shall be permitted except where they are of such a height or location as to interfere with sight clearances required for traffic safety. No wall or fence shall exceed eight feet (8') in height.
 - b. Fences, walls, or enclosure buildings shall be required for the enclosure of trash dumpsters accessory to multiple family, commercial, industrial, or manufacturing uses, or combination uses thereof.
10. Signs and sign areas
 - a. All privately installed signs shall be located not less than ten (10) feet from the right-of way of any public road or highway.
 - b. The number and area of signs required by New York State laws and regulations and attached directly to buildings shall be not be included in the determination of the number and area of signs on any property.
 - c. Signs used for commercial purposes which are clearly seasonal by their nature and will not be displayed for more than ninety (90) continuous days shall not be included in the determination of the number and area of signs on any property.
 - d. Blinking, flashing, or moving signs or sign elements are prohibited in all districts.

C. OFF-STREET PARKING STANDARDS:

1. Parking standards for residential uses in the Agricultural – Rural Residential District are as follows:

<u>Residential Use</u>	<u>Parking Standard</u>
One-Family or Two-Family Dwelling	No standard
Multiple Family Dwelling	1.5 spaces per dwelling unit

2. Parking standards for non-residential uses in the Agricultural – Rural Residential District are as follows:

<u>Non-residential use</u>	<u>A minimum of one (1) space for each...</u>
Hotel, Motel or Inn	Guest room plus one-third space for each employee on largest shift
Church or other place of public assembly	3 seats, or 50 sq. ft. of seating area where fixed seating is not provided.
Schools	12 classroom seats or the public assembly requirements above, whichever is greater.
Retail Sales and Service	225 sq. ft. of gross floor space
Offices	400 sq. ft. of gross floor area.
Eating and Drinking places	50 sq. ft. available to patrons.
Funeral Homes	20 sq. ft. of public assembly area.
Industrial uses	1.5 employees at the largest shift.
Medical Services Clinic	Employee plus two (2) for each doctor, dentist, chiropractor or other primary service provider.
Coin Operated Laundry	2 machines for customer use.
Motor Vehicle Repair Facility or Gasoline Station	Each employee plus two (2) spaces for each service bay.
Bed-and-Breakfast, or Boarding/Rooming House	Guest Room
Nursing Home	4 bed capacity plus one (1) for each 1.5 employees on the

=====
paving, crushed stone or gravel.

10. Except for new or used vehicle sale lots where permitted and vehicles and equipment used in agricultural production, no more than one (1) vehicle not in current registration shall be stored outdoors, and all such vehicles shall be screened from neighboring residential properties when not in active use.

D. LAND USE IMPACTS AND PERFORMANCE STANDARDS

For purposes of this local law, each Land Use in the Agricultural-Rural Residential District shall be classified in the lowest impact category for which it is eligible under the Category definitions below.

1. Impact Category A: No or Minimal Impact Use:
 - a. If a Land Use does not exceed any of the following impact limits, it shall be defined as Category A: No or Minimal Impact Use:
 - 1) Required parking spaces do not exceed 6, are located in the side or rear yard, and are screened from adjacent residential properties;
 - 2) Non-resident employees will not exceed two (2);
 - 3) The area of any commercial use will not exceed 30% of the total floor area of any residential structure and/or all floor area of any existing accessory building, and no new structure(s) will be built to accommodate a commercial use;
 - 4) Any commercial use shall not include the display of goods or the storage of equipment or materials outside of structures unless screened from view from both the street and adjacent properties;
 - 5) Any commercial use will not be open to the public before 8:00 AM or after 8:00 PM;
 - 6) Signs will not exceed one in number, shall not exceed nine (9) square feet in total area, and shall have no illumination, direct or indirect;
 - 7) There will be no exterior lighting that results in glare, no direct view of any lamp, light-emitting fixture, or bulb, and no light spillover in excess of 0.1 foot-candles, as measured from any point on any adjacent property;
 - 8) Average noise levels for any period of four hours or more resulting from any commercial activity shall not exceed 60 decibels, as measured from any point on any adjacent property;
 - 9) No odors, dust or air emissions resulting from any commercial activity shall

=====

be evident outside of structures or discernible from any point on any adjacent property.

- b. Category A, No or Minimal Impact Uses, are permitted in the Agricultural-Rural Residential District without Site Plan review or approval, and the Land Use Permit may be issued by the Code Enforcement Officer without further review.

2. Impact Category B: Minor Impact Use:

- a. If a Land Use does not exceed any of the following impact limits, it shall be defined as Category B: Minor Impact Use:

- 1) Required parking spaces do not exceed 12, are located in the rear yard, and are screened from adjacent residential properties;
- 2) Non-resident employees will not exceed four (4);
- 3) The area of commercial use will not exceed 30% of the total floor area of any residential structure and/or all floor area of any existing or new accessory building;
- 4) Any commercial use will not be open to the public before 7:00 AM or after 9:00 PM;
- 5) Signs will not exceed one in number, shall not exceed twenty (20) square feet in total area, and sign lighting shall be limited to the period from the start of daily business until 10 pm;
- 6) There will be no exterior lighting that results in glare, no direct view of any lamp, light-emitting fixture, or bulb, and no light spillover in excess of 0.1 foot-candles, as measured from any point on any adjacent property;
- 7) Average noise levels for any period of four hours or more resulting from the commercial activity shall not exceed 70 decibels, as measured from any point on any adjacent property;
- 8) No odors, dust or air emissions resulting from the commercial activity shall be discernible from any point on any adjacent property.

- b. Category B, Minor Impact Uses, are permitted in the Agricultural-Rural Residential District, subject to Site Plan approval by the Planning Board, with the following conditions:

- 1) Setback from all lot lines and street lines shall be not less than 30 feet.
- 2) There shall be no more than one access drive to the property.

3. Category C: Substantial Impact Use:

- a. If a Land Use does not exceed any of the following impact limits, it shall be defined as Category C: Substantial Impact Use:
 - 1) Required parking spaces do not exceed 20, are located in the rear yard, and are screened from adjacent residential properties;
 - 2) Any commercial use will not be open to the public before 6:00 AM or after 10:00 PM;
 - 3) Signs shall not exceed two in number, shall not exceed thirty-two (32) square feet in total area, and sign lighting shall be limited to the period from the start of daily business until 10 pm;
 - 4) There will be no exterior lighting that results in glare, no direct view of any lamp, light-emitting fixture, or bulb, and no light spillover in excess of 0.1 foot-candles, as measured from any point on any adjacent property;
 - 5) Average noise levels for any period of four hours or more resulting from commercial activity shall not exceed 70 decibels, as measured from any point on any adjacent property;
 - 6) No odors, dust or air emissions resulting from the commercial activity shall be discernible from any point on any adjacent property.
- b. Category C, Substantial Impact Uses, are permitted in the Agricultural-Rural Residential District, subject to Site Plan approval by the Planning Board, with the following conditions:
 - 1) Setback of all buildings, structures and parking areas from all side lot lines shall be not less than 150 feet; and
 - 2) Setback of all buildings, structures and parking areas from the rear lot line shall be not less than 150 feet; and

4. Category D: Major Impact Use:

- a. If a Land Use exceeds any of the following thresholds, it is defined as Category D: Major Impact Use:
 - 1) Required parking spaces exceed 20, as determined by Off-Street Parking Standards or by the Planning Board during Site Plan Review; or
 - 2) Commercial use will be open to the public before 6:00 AM or after 10:00 PM; or

- 3) Signs will exceed two in number, 32 square feet in total area, or include any direct illumination.
 - b. Category D, Major Impact Uses, shall be Type I actions pursuant to the NYS Environmental Quality Review Act and regulations pursuant thereto.
 - c. Category D, Major Impact Uses, shall NOT be permitted in the Agricultural-Rural Residential District unless such use is included in a Planned Unit Development reviewed and approved pursuant to Article VI of this local law.
5. Category E: Special Uses
- a. The following uses are defined as Category E: Special Uses, are subject to additional standards as delineated in Article IV of this local law, and are permitted in the Agricultural-Rural Residential District only after Site Plan approval and issuance of a Special Use permit by the Planning Board.
 - 1) Manufactured Home Communities
 - 2) Radio, television, and/or personal communications or electronic data receiving and/or transmitting towers or antennae with height in excess of 40 feet, measured from existing ground elevation.
 - 3) Mining or removal of rock, sand, gravel, topsoil, or other geological or mineral deposit for off-site use or sale which does not reach or exceed the thresholds for regulation under the New York Mined Land Reclamation Law.
 - 4) Placement or spreading on land of sewage sludge, biosolids or treated products thereof (but NOT including domestic, commercial, or industrial septage, liquid or solids from any septic tank, or grease from commercial grease traps).
6. Category F: Unacceptable Impact Uses
- a. The following land uses are defined as Category F: Unacceptable Impact Uses and are prohibited in the Agricultural-Rural Residential District under all circumstances:
 - 1) Extraction of mineral resources that meets or exceeds the thresholds for regulation pursuant to the New York Mined Land Reclamation Law;
 - 2) Privately-owned and/or operated commercial landfills for the disposal of solid waste, hazardous waste, or construction and demolition debris.
 - 3) Incinerators, burn plants or power generating plants which use as fuel, wholly or in part, solid waste, hazardous waste, or construction and

demolition debris, or which will generate or have the potential of generating noise (measured at a point one hundred (100) feet from the point of origin) in excess of seventy five (75) decibels for a period exceeding thirty (30) minutes during daylight hours or sixty (60) decibels for a period exceeding thirty (30) minutes during nighttime hours.

- 4) Prisons, jails, or other correctional facilities for the incarceration of persons convicted of crimes.
- 5) 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.
- 6) Junkyards, defined as the outdoor storage or deposit of five or more junk vehicles, two or more junk mobile homes, five or more junk appliances, five or more pieces of junk furniture, or any combination of these that totals five or more items. Junkyards legally in existence and/or operation as of the effective date of this local shall continue to be governed by the standards of the Junk Storage Law, Town of Perth Local Law No. 2-1998.

E. DENSITY STANDARDS IN THE AGRICULTURAL-RURAL RESIDENTIAL DISTRICT

- 1. After the effective date of this local law, no use shall be commenced, nor any building or structure or part thereof shall be erected, structurally altered, enlarged, rebuilt or moved except in conformance with the provisions of these Density Standards
- 2. The area required for complying with setback requirements or the Density Standard for any Principal Building as defined herein, shall not be counted as providing required open space, land area, or setback for any other use or structure.
- 3. A new lot or lots may be created through subdivision or combination of an existing lot or lots provided that all resulting lots comply with the Density Standards established in this local law and also comply with the Town Subdivision Law, as amended.
- 4. The Density Standard is the minimum developable land area required per principal building.
- 5. For the purpose of calculating the Density Standard, the following resources shall be excluded from the area of the land under consideration:
 - a) Wetlands, as defined by the standards of the U.S. Army Corps of Engineers, regardless of size.
 - b) Land within 150 feet of a protected stream, as defined by the New York Environmental Conservation Law.
 - c) Land within any floodway, floodplain or flood hazard area, as defined by the federal

Flood Insurance program.

- 6. The Density Standard for all uses in the Agricultural-Rural Residential District shall be one (1) acre per principal building.
- 7. The density can be satisfied by either of the following:
 - a) A minimum lot size sufficient to meet the density standard for the district in which the use is located independently of any other use or property with a minimum lot width of one hundred fifty feet (150’); or
 - b) The commitment of land to an irrevocable conservation easement or land conservation trust, dedication to and acceptance by the state, county, town or any village as publicly owned or park land, or other legally enforceable mechanism that guarantees permanent and irrevocable removal of sufficient land area otherwise suitable for development purposes from any and all future development, such that the average area per principal building is equal to or greater than the density standard.

Such irrevocable removal of land from development shall be subject to the approval of the Planning Board in consultation with the Town Attorney as to form and substance of the legal mechanism, conditions on use of such land, and area and location of such land.

 - 1. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a subdivision subject to the Town Subdivision Law, said review and approval shall be conducted simultaneously with subdivision review and approval.
 - 2. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to Site Plan Review, said review and approval shall be conducted simultaneously with Site Plan Review.
 - 3. If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to neither the Town Subdivision Law nor Site Plan Review, the property owner shall apply directly to the Planning Board for independent review, and approval shall be a condition for issuance of the Land Use Permit pursuant to this law.
- 8. Land irrevocably removed from any and all future development for purposes of satisfying the density standard may be used for any of the following purposes:
 - a) Agriculture, farming, pasture, woodlands, or related uses not including buildings or

=====

structures.

- b) Active or passive outdoor recreation not including buildings or structures.
- c) Individual or combined septic systems, leach fields or other subsurface sanitary disposal systems.
- d) Unused or vacant land, either maintained or non-maintained.

9. Principal Building is defined as follows:

- a) A single family dwelling constitutes one principal building;
- b) Each manufactured home located in a manufactured home community approved pursuant to Article VI of this local law constitutes one-sixth of a principal building.
- c) Each dwelling unit of a two-family or multiple family dwelling, including each separate dwelling unit used on a time-sharing, leased time or other similar basis constitutes one-fourth of a principal building;
- d) A tourist cabin or similar structure for rent or hire with more than 300 square feet of net floor area constitutes one principal building;
- e) Each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, and each accommodation unit of a tourist home or similar structure and each tourist cabin unit for rent or hire, in which said individual unit encompasses less than 300 square feet of net floor area constitutes one fourth of a principal building for each such unit;
- f) Each campsite for the parking of occupied recreational vehicles or travel trailers or the erection of tents or other shelters for temporary residential use constitutes one third of a principal building;
- g) For each commercial use or structure for the retail sale, rental or distribution of goods, services or commodities, each 5,000 square feet of gross floor space or portion thereof of such commercial use structure constitutes one principal building;
- h) For any industrial or manufacturing use structure, each 8,000 square feet of gross floor area or any fraction thereof shall constitute one principal building;
- i) All agricultural use structures and one single-family residential structure or mobile home located on land in agricultural use together constitute and count as one principal building.
- j) Any other structure which exceeds 1250 square feet of floor space constitutes one principal building;



- k) A structure containing a commercial use which is also used as a single family dwelling constitutes one principal building, provided the commercial use does not exceed 1,500 square feet of net floor area.

- l) An accessory building or structure in any district, and any agricultural accessory building not used for residential or commercial purposes and located in the Agricultural – Rural Residential District, do not constitute and shall not count as a principal building.

ARTICLE III: COMMERCIAL-RESIDENTIAL DISTRICT (C-R)

A. STATEMENT OF DISTRICT PURPOSE

The following statement of purpose defines the spirit and intent of the Commercial-Residential District and is to be used as a guide in the interpretation and application of these regulations.

The purposes of the Commercial-Residential District, in priority order, are:

1. to encourage commercial investment and development ;
2. to provide areas for general retail and commercial development where appropriate services and transportation access are available;
3. to assure adequate services, parking, roadways, drainage and other services for commercial endeavors;
4. to allow the development of housing opportunities appropriate for location within and adjacent to commercially developed areas;
5. to allow the continuation of agricultural land uses consistent with adjacent commercial development.

B. GENERAL PERFORMANCE STANDARDS IN THE COMMERCIAL-RESIDENTIAL DISTRICT

The following general performance standards shall apply to all uses in the Commercial-Residential District:

1. All improvements, including buildings, accessory structures and/or septic system components shall be located no closer than 30 feet from the right-of-way of any public road or highway and no closer than 15 feet from any property line.
2. The total coverage area of all buildings and accessory structures, including both temporary and permanent buildings or structures, shall not exceed fifty percent (50%) of the area of the lot on which located.
3. No offensive or objectionable vibration, noise, or glare shall be noticeable at or beyond the property line.
4. No activity shall create a physical hazard by reason of potential for fire, explosion, radiation, or other such cause to persons or property in the same or an adjacent district.

-
5. No material of any nature which may contaminate any water supply shall be discharged into any stream or body of water or any public or private disposal system, or into or onto the ground surface.
 6. There shall be no storage of any material either indoors or outdoors in such a manner that it facilitates the breeding of vermin, or endangers health.
 7. The emission of smoke, fly ash, dust, or other airborne material which can cause damage to the health of persons, animals, plant life, or to other forms of property is prohibited. This provision is not intended to regulate or prohibit the customary use of residential fireplaces, wood burning or coal burning stoves, residential barbecues or outdoor fireplaces, or smokehouses.
 8. The location of all stored materials, equipment, equipment under repair, rubbish, dumpsters and related items shall be behind buildings unless screened from the public roads by fencing or landscaping.
 9. Accessory Uses and Structures
 - a. Walls and fences shall be permitted except where they are of such a height or location as to interfere with sight clearances required for traffic safety. No wall or fence shall exceed eight feet (8') in height.
 - b. Fences or walls shall be required for the enclosure of trash dumpsters accessory to multiple family, commercial, and industrial or manufacturing uses.
 10. Signs and sign areas
 - a. All privately installed signs shall be located not less than ten (10) feet from the right-of way of any public road or highway.
 - b. The number and area of signs required by New York State laws and regulations and attached directly to buildings shall be not be included in the determination of the number and area of signs on any property.
 - c. Signs used for commercial purposes which are clearly seasonal by their nature and will not be displayed for more than ninety (90) continuous days shall be not be included in the determination of the number and area of signs on any property.
 - d. Blinking, flashing, or moving signs or sign elements are prohibited in all districts.

C. OFF-STREET PARKING STANDARDS:

1. Parking standards for residential uses in the Commercial-Residential District are as follows:

<u>Residential Use</u>	<u>Parking Standard</u>
One-Family or Two-Family Dwelling	No standard
Multiple Family Dwelling	1.5 spaces per dwelling unit

2. Parking standards for non-residential uses in the Commercial-Residential District are as follows:

<u>Non-residential use</u>	<u>A minimum of one (1) space for each...</u>
Hotel, Motel or Inn	Guest room plus one-third space for each employee on largest shift
Church or other place of public assembly	3 seats, or 50 sq. ft. of seating area where fixed seating is not provided.
Schools	12 classroom seats or the public assembly requirements above, whichever is greater.
Retail Sales and Service	225 sq. ft. of gross floor space
Offices	400 sq. ft. of gross floor area.
Eating and Drinking places	50 sq. ft. available to patrons.
Funeral Homes	20 sq. ft. of public assembly area.
Industrial uses	1.5 employees at the largest shift.
Medical Services Clinic	Employee plus two (2) for each doctor, dentist, chiropractor or other primary service provider.
Coin Operated Laundry	2 machines for customer use.
Motor Vehicle Repair Facility or Gasoline Station	Each employee plus two (2) spaces for each service bay.



Bed-and-Breakfast, or Boarding/Rooming House	Guest Room
Nursing Home	4 bed capacity plus one (1) for each 1.5 employees on the largest shift.
Rest Home	2 residents plus 1 for each 1.5 employees on the largest shift.

3. Alternatively, the Owner or Developer of any proposed non-residential land use may submit in writing (with justification and documentation satisfactory to the Planning Board) the total maximum number of parking spaces needed to meet parking demand for customers, clients and employees at peak load conditions and shall provide 85% of that peak number of parking spaces. In reviewing such submission, the Planning Board shall consult the table of Parking Standards in C.1. and C. 2., above.
4. Reasonable and appropriate off-street parking standards for structures and uses not specifically designated in these regulations shall be determined by the Planning Board during Site Plan Review upon consideration of all factors entering into the parking needs of the proposed structure or use. In doing so, the Planning Board shall consult the table of Parking Standards in C.1. and C. 2., above.
5. In addition to parking lots, areas which may be counted as off-street parking spaces include the following:
 - a. Any private garage or carport available for parking.
 - b. Any parking area under common ownership with the principal use located within 400 ft. of the main entrance of such use, provided adequate pedestrian access to the principal use is available. Such vehicle parking area shall be deemed to be required open space associated with the permitted use and shall not be encroached upon.
6. Each off-street parking space shall be not less than two hundred (200) square feet in area and, if in a parking lot, shall be a minimum of ten (10) feet wide by twenty (20) feet deep and shall be served by an aisle not less than twenty (20) feet wide for a one-way circulation flow, or twenty-six (26) feet wide for two-way flow. Entrance and exit lanes shall not be computed as parking space.
7. No area between the building line and street line shall be counted in order to meet the parking standard, nor shall such area be developed for parking purposes.
8. Unobstructed access to and from a street shall be provided. Access drives shall be of sufficient width to permit the free flow of cars both entering and leaving the parking area. Access drives for any off-street parking area with a capacity of more than six (6) spaces shall be located in a manner which ensures traffic safety and shall be subject to Site Plan

=====
review by the Planning Board. Access drives shall not have a grade in excess of three percent (3%) within twenty-five (25) feet of any street right-of-way line nor ten percent (10%) at any other point.

9. All parking areas shall be properly drained and all such areas, except for parking for one- or two-family residences, shall be provided with a surface that minimizes dust, such as paving, crushed stone or gravel.
10. Except for new or used vehicle sale lots (where permitted) and vehicles and equipment used in agricultural production, no more than one (1) vehicle not in current registration shall be stored outdoors, and all such vehicles shall be screened from neighboring residential properties when not in active use.

D. LAND USE IMPACTS AND PERFORMANCE STANDARDS

For purposes of this local law, each Land Use in the Commercial-Residential District shall be classified in the lowest impact category for which it is eligible under the Category definitions below.

1. Impact Category A: No or Minimal Impact Use:
 - a. If a Land Use does not exceed any of the following impact limits, it shall be defined as Category A: No or Minimal Impact Use:
 - 1) Required parking spaces do not exceed 6, are located in the side or rear yard, and are screened from adjacent residential properties;
 - 2) Non-resident employees will not exceed two (2);
 - 3) The area of any commercial use will not exceed 30% of the total floor area of any residential structure and/or all floor area of any existing accessory building, and no new structure(s) will be built to accommodate the commercial use;
 - 4) Any commercial use shall not include the display of goods or the storage of equipment or materials outside of structures unless screened from view from the street and adjacent properties;
 - 5) Any commercial use will not be open to the public before 8:00 AM or after 8:00 PM;

-
- 6) Signs will not exceed one in number, shall not exceed nine (9) square feet in total area, and shall have no illumination, direct or indirect;
 - 7) There will be no exterior lighting that results in glare, direct view of any lamp, light-emitting fixture or bulb, or light spillover in excess of 0.1 foot-candles, as measured from any point on any adjacent property;
 - 8) Average noise levels for any period of four hours or more resulting from any commercial activity shall not exceed 60 decibels, as measured from any point on any adjacent property;
 - 9) No odors, dust or air emissions resulting from any commercial activity shall be evident outside of structures or discernible from any point on any adjacent property.
- b. Category A, No or Minimal Impact Uses, are permitted in the Commercial-Residential District without Site Plan review or approval, and the Land Use Permit may be issued by the Code Enforcement Officer without further review.

2. Impact Category B: Minor Impact Use:

- a. If a Land Use does not exceed any of the following impact limits, it shall be defined as Category B: Minor Impact Use:
 - 1) Required parking spaces do not exceed 12, are located in the rear yard, and are screened from adjacent residential properties;
 - 2) Non-resident employees will not exceed four (4);
 - 3) The area of commercial use will not exceed 30% of the total floor area of any residential structure and/or all floor area of any existing or new accessory building;
 - 4) Any commercial use will not be open to the public before 7:00 AM or after 9:00 PM;
 - 5) Signs will not exceed one in number, shall not exceed twenty (20) square feet in total area, and sign lighting shall be limited to the period from the start of daily business until 10 pm;
 - 6) There will be no exterior lighting that results in glare, direct view of any lamp, light-emitting fixture or bulb, or light spillover in excess of 0.1 foot-candles, as measured from any point on any adjacent property;

-
- 7) Average noise levels for any period of four hours or more resulting from the commercial activity shall not exceed 70 decibels, as measured from any point on any adjacent property;
 - 8) No odors, dust or air emissions resulting from the commercial activity shall be discernible from any point on any adjacent property.
- b. Category B, Minor Impact Uses, are permitted in the Commercial-Residential District, subject to Site Plan approval by the Planning Board with the following conditions:
- 1) Setback from all lot lines shall be not less than 30 feet; and
 - 2) There shall be no more than one access drive to the property.
3. Category C: Substantial Impact Use:
- a. If a Land Use does not exceed any of the following impact limits, it shall be defined as Category C: Substantial Impact Use:
- 7) Required parking spaces do not exceed 20, are located in the rear yard, and are screened from adjacent residential properties;
 - 8) Any commercial use will not be open to the public before 6:00 AM or after 10:00 PM;
 - 9) Signs shall not exceed two in number, shall not exceed thirty-two (32) square feet in total area, and sign lighting shall be limited to the period from the start of daily business until 10 pm;
 - 10) There will be no exterior lighting that results in glare, direct view of any lamp, light-emitting fixture or bulb, or light spillover in excess of 0.1 foot-candles, as measured from any point on any adjacent property;
 - 11) Average noise levels for any period of four hours or more resulting from commercial activity shall not exceed 70 decibels, as measured from any point on any adjacent property;
 - 12) No odors, dust or air emissions resulting from the commercial activity shall be discernible from any point on any adjacent property.
- b. Category C, Substantial Impact Uses, are permitted in the Commercial-Residential District, subject to Site Plan approval by the Planning Board with the following conditions:

- 1) Setback of all buildings, structures and parking areas from the all side lot lines shall be not less than thirty (30) feet; and
 - 2) Setback of all buildings, structures and parking areas from side lot lines with adjacent residential properties shall be not less than fifty (50) feet;
 - 3) Setback of all buildings, structures and parking areas from the rear lot line shall be not less than 50 feet; and
 - 4) There shall be no more than one access drive to the property.
 - 5) Parking areas shall be located in the side or rear yard and screened from both street and adjacent properties
4. Category D: Major Impact Use:
- a. If a Land Use exceeds any of the following thresholds, it is defined as Category D: Major Impact Use:
 - 1) Required parking spaces exceed 20, as determined by the Planning Board during Site Plan Review; or
 - 2) Commercial use will be open to the public before 6:00 AM or after 10:00 PM; or
 - 3) Signs will exceed two in number, 32 square feet in total area, or include any direct illumination.
 - b. Category D, Major Impact Uses, shall be Type I actions pursuant to the New York State Environmental Quality Review Act and regulations pursuant thereto.
 - c. Category D, Major Impact Uses, shall be permitted in the Commercial-Residential District pursuant to Site Plan Approval from the Planning Board only subject to the following conditions:
 - 1) No building, structure, or parking area shall be closer than 50 feet from the property line of any property in the Agricultural-Rural Residential District.
 - 2) No building, structure, or parking area shall be closer than 100 feet from the property line of any adjacent existing residential property
 - 3) Parking areas shall be located in the side or rear yard and screened from both the street and adjacent properties

- =====
- 4) Site Plan approval shall not be issued by the Planning Board without the provision of cross-easements to adjacent properties with the same frontage for the purpose of cross access between parking areas for existing or potential future commercial uses. Such cross easements shall be satisfactory in location, form and substance to the Planning Board, and proper filing of same shall be a condition of final site plan approval.

5. Category E: Special Uses

The following uses are defined as Category E: Special Uses, are subject to additional standards as delineated in Article IV of this local law, and are permitted in the Commercial-Residential District only after Site Plan approval and issuance of a Special Use permit by the Planning Board.

- a. Manufactured Home Communities.
- b. Radio, television, and personal communications or electronic data receiving and/or transmitting towers or antennae with height in excess of 40 feet, measured from existing ground elevation.

6. Category F: Unacceptable Impact Uses

The following land uses are defined as Category F: Unacceptable Impact Uses and are prohibited in the Commercial-Residential District under all circumstances:

- a. Any and all operations to extract mineral resources regardless of whether such activity meets the thresholds for regulation pursuant to the New York Mined Land Reclamation Law.
- b. Privately owned and/or operated commercial landfills for the disposal of solid waste, hazardous waste, or construction and demolition debris.
- c. Incinerators, burn plants or power generating plants which use as fuel, wholly or in part, solid waste, hazardous waste, or construction and demolition debris, or which will generate or have the potential of generating noise (measured at a point one hundred (100) feet from the point of origin) in excess of seventy five (75) decibels for a period exceeding thirty (30) minutes during daylight hours or sixty (60) decibels for a period exceeding thirty (30) minutes during nighttime hours.
- d. Prisons, jails, or other correctional facilities for the incarceration of persons convicted of crimes.

-
- e. Placement or spreading on land of sewage sludge, biosolids or treated products thereof, or any material that is or includes domestic, commercial, or industrial septage, or any liquid or solids from any septic tank, or any grease from any commercial grease trap, regardless of level of treatment.
 - f. Junkyards, defined as the outdoor storage or deposit of five or more junk vehicles, two or more junk mobile homes, five or more junk appliances, five or more pieces of junk furniture, or any combination of these that totals five or more items. Junkyards legally in existence and/or operation as of the effective date of this local shall continue to be governed by the standards of the Junk Storage Law, Town of Perth Local Law No. 2-1998.

E. DENSITY STANDARDS IN THE COMMERCIAL-RESIDENTIAL DISTRICT

- 1. After the effective date of this local law, no use shall be commenced, nor any building or structure or part thereof shall be erected, structurally altered, enlarged, rebuilt or moved except in conformance with the provisions of the Density Standards in this Article for the District in which such use, building or structure is located.
- 2. The Density Standard for all uses in the Commercial-Residential District shall be one (1) acre per principal building
- 3. The area required for complying with setback requirements or the Density Standard for any Principal Building as defined herein, shall not be counted as providing required open space, land area, or setback for any other use or structure.
- 4. A new lot or lots may be created through subdivision or combination of an existing lot or lots provided that all resulting lots comply with the Density Standards established in this local law and also comply with the Town Subdivision Law, as amended.
- 5. The Density Standard is the minimum developable land area required per principal building.
- 6. For the purpose of calculating the Density Standard, the following resources shall be excluded from the area of the land under consideration:
 - a. Wetlands, as defined by the standards of the U.S. Army Corps of Engineers, regardless of size.
 - b. Land within 150 feet of a protected stream, as defined by the New York Environmental Conservation Law.
 - c. Land within any floodway, floodplain or flood hazard area, as defined by the federal Flood Insurance program.

- 7. The density can be satisfied by either of the following:
 - a. A minimum lot size sufficient to meet the density standard for the district in which the use is located independently of any other use or property with a minimum lot width of one hundred fifty feet (150'); or
 - b. The commitment of land to an irrevocable conservation easement or land conservation trust, dedication to and acceptance by the state, county, town or any village as publicly owned or park land, or other legally enforceable mechanism that guarantees permanent and irrevocable removal of sufficient land area otherwise suitable for development purposes from any and all future development, such that the average area per principal building is equal to or greater than the density standard.

Such irrevocable removal of land from development shall be subject to the approval of the Planning Board in consultation with the Town Attorney as to form and substance of the legal mechanism, conditions on use of such land, and area and location of such land.

- 1) If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a subdivision subject to the Town Subdivision Law, said review and approval shall be conducted simultaneously with subdivision review and approval.
 - 2) If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to Site Plan Review, said review and approval shall be conducted simultaneously with Site Plan Review.
 - 3) If the conservation easement, trust, dedication or other legal mechanism subject to Planning Board review and approval involves a use subject to neither the Town Subdivision Law nor Site Plan Review, the property owner shall apply directly to the Planning Board for independent review, and approval shall be a condition for issuance of the Land Use Permit pursuant to this law.
- 8. Land irrevocably removed from any and all future development for purposes of satisfying the density standard may be used for any of the following purposes:
 - a. Agriculture, farming, pasture, woodlands, or related uses not including buildings or structures.
 - b. Active or passive outdoor recreation not including buildings or structures.

-
- c. Individual or combined septic systems, leach fields or other subsurface sanitary disposal systems.
 - d. Unused or vacant land, either maintained or non-maintained.
9. Principal Building is defined as follows:
- a. A single family dwelling or a mobile home NOT located in a Mobile Home Park approved pursuant to Article VI of this local law constitutes one principal building;
 - b. Each manufactured home located in a Manufactured Home Community constitutes one-sixth of a principal building;
 - c. Each dwelling unit of a multiple family dwelling, including each separate dwelling unit used on a time-sharing, leased time or other similar basis constitutes one-fourth of a principal building;
 - d. A tourist cabin or similar structure for rent or hire with more than 300 square feet of net floor area constitutes one principal building;
 - e. Each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, and each accommodation unit of a tourist home or similar structure and each tourist cabin unit for rent or hire, in which said individual unit encompasses less than 300 square feet of net floor area constitutes one fourth of a principal building for each such unit;
 - f. Each campsite for the parking of occupied recreational vehicles or travel trailers or the erection of tents or other shelters for temporary residential use constitutes one third of a principal building;
 - g. For each commercial use or structure for the retail sale, rental or distribution of goods, services or commodities, each 5,000 square feet of gross floor space or portion thereof of such commercial use structure constitutes one principal building;
 - h. For any industrial or manufacturing use structure, each 8,000 square feet of gross floor area or any fraction thereof shall constitute one principal building;
 - i. All agricultural use structures and one single-family residential structure or mobile home located on land in agricultural use together constitute and count as one principal building.
 - j. Any other structure which exceeds 1250 square feet of floor space constitutes one principal building;



- k. A structure containing a commercial use which is also used as a single family dwelling constitutes one principal building, provided the commercial use does not exceed 2,500 square feet of net floor area.

- l. An accessory building or structure does not constitute and shall not count as a principal building.



ARTICLE IV: SPECIAL USE PERMITS

A. SCOPE AND PURPOSE

1. Special Use Permits are intended to allow land uses which, by their nature, have potential impacts that warrant additional standards specific to their development and careful review by the Planning Board to assure both compliance with those standards and minimal adverse impacts on surrounding properties and the community, and which, without such additional standards and review, might result in impacts unacceptable to the Town of Perth
2. No Land Use Permit or Building Permit shall be issued for any use for which a Special Use Permit is required by Article II or Article III of this law without prior issuance of a Special Use Permit by the Planning Board.
3. No Special Use Permit shall be issued without prior Site Plan review and approval by the Planning Board pursuant to Article IV.
4. No Special Use Permit shall be issued until all other applicable city, county, state and federal permits have been acquired.

B. STANDARDS APPLICABLE TO ALL SPECIAL USE PERMITS

1. No Special Use Permit shall be granted by the Planning Board unless it finds that the use for which such permit is sought will not be injurious to or incompatible with the surrounding neighborhood or area. The Planning Board shall reach a specific finding, based on the land use and site plan proposed, that:
 - a. Under the circumstances of the particular case and in the location for which the permit is sought, the use will not be injurious, undesirable, incompatible with the surrounding area, or unattractive in appearance.
 - b. The use for which the permit is sought is appropriately located and/or serviced with respect to transportation routes, water supply, sewage disposal, and other services.
 - c. The number of off-road parking spaces is adequate to serve the proposed use.
 - d. Neighborhood character and surrounding property values and land use are reasonably protected.
 - e. The use for which the permit is sought will not cause undue traffic congestion or create a traffic hazard.

- =====
- f. The use for which the permit is requested will not result in density of development beyond the density limits defined by this local law .
 - 2. All uses for which a Special Use Permit is required shall be considered Type I actions for purposes of the New York State Environmental Quality Review Act and regulations promulgated pursuant thereto.
 - 3. The Planning Board shall attach such conditions to the Special Use Permit as it deems necessary, helpful, or appropriate to accomplish items B.1.a. to B.1.f. ,above, inclusive.

C. LAND USES SUBJECT TO ADDITIONAL STANDARDS AND SPECIAL USE PERMITS

1. MANUFACTURED HOME COMMUNITIES

- b. It shall be unlawful to construct or operate a manufactured home community without first securing a Special Use Permit pursuant to this section.
- c. Every manufactured home community shall contain at least two (2) sites.
- d. Any Special Use Permit issued for the construction or operation of a Manufactured Home Community shall be issued for a period not to exceed one (1) year. The Special Use Permit shall be eligible for renewal upon expiration, provided the subject Manufactured Home Community has been constructed and operated in compliance with its previous permit.
- e. Enlargement of an existing Manufactured Home Community shall be subject to the same procedures and requirements as a new Manufactured Home Community development.
- f. The original application for the Special Use Permit shall be submitted to the Code Enforcement Officer and shall be accompanied by a fee to be determined by the Town Board. Thereafter each home shall be assessed on the tax rolls of the Town of Perth against the owner of the Manufactured Home Community and/or the qualified home owners applying for either Senior or Veterans exemption under the Real Property Tax Law, as appropriate.
- g. Purposes of the Special Use Permit Process as applied to Manufactured Home Communities
 - 1) To promote the health, safety, protection and general welfare of the residents of the Town of Perth, including especially those living in manufactured homes;

-
-
- 2) To provide for review and approval of the site design of all manufactured home communities proposed for the Town of Perth prior to their construction or expansion;
 - 3) To establish appropriate supplemental standards and regulations for the design and operation of manufactured home communities.
 - 4) To assure that the standards for operation of the Mobile Home Community are maintained through required annual renewal of the Special Use Permit.

h. Supplemental Design Standards for Manufactured Home Communities

- 1) Manufactured Home Community site drainage shall be properly designed to ensure adequate drainage during and following rainfall and snowmelt.
- 2) The number of home sites shall not exceed (6) per gross acre of the community.
- 3) All homes shall be located not less than thirty (30) feet from the right of way of any public highway or street and not less than fifteen (15) feet from any property line of adjoining parcels.
- 4) Manufactured Home Communities located adjacent to existing commercial, manufacturing, or residential land use shall be visually screened from said use by major evergreen trees, such as Australian pine, spruce, fir or ornamental bushes which must have a minimum average height of three (3) feet measured from the ground to the highest point of the tree at the time of planting and must be capable of reaching a minimum height of ten (10) feet at maturity.
- 5) Manufactured homes shall be located a minimum of fifteen (15) feet from the edge of any manufactured home community street.
- 6) The layout and design of individual sites, streets and recreation areas shall preserve as much as practical of the existing topography and existing natural features (such as mature trees, rock outcroppings or other significant and beneficial aesthetic features).
- 7) All home sites shall have an area of not less than five thousand (5,000) square feet, of which no more than twenty-five percent (25%) shall be occupied by the home itself, and shall conform to the following requirements:

-
- a) Each home shall provide a minimum yard space of fifteen (15) feet in the rear, the minimum width of any side yard shall be five (5) feet. The total width of both side yards combined shall not be less than twenty (20) feet.
 - b) There shall be a minimum of twenty (20) feet between homes.
 - c) All home sites shall have a foundation to accommodate and secure the home structure in accordance with New York State Uniform Building and Fire Prevention Code.
 - d) All home sites shall be provided with anchors or tie-downs capable of securing the stability of the home.
 - e) All home sites shall be suitably graded to provide adequate drainage.
 - f) The perimeter of the all homes shall be enclosed with skirting.
- 8) Parking, roadways and access roads shall meet or exceed the following requirements:
- a) A primary access road with a dust control width of at least thirty (30) feet shall be provided for a minimum distance of one hundred (100) feet from the public road.
 - b) Each internal community street shall have a dust control surface width of at least twenty (20) feet and shall be constructed and maintained with a dust control surface on a suitable base according to local requirements.
 - c) Adequate lighting shall be provided, with style and location of lighting fixtures in accordance with the site plan as approved by the Planning Board.
 - d) Two (2) off-street parking spaces shall be provided for each home site. Each parking space must have minimum of two hundred (200) square feet and may be grouped with others in a common or semi-common parking areas, subject to approval of the Planning Board. One (1) additional parking space for guest and/or overflow parking shall be provided for each four (4) home sites.
 - e) Any area or areas provided solely for the parking and/or storage of recreational vehicles, boats, trailers and other equipment owned by the residents of the community shall be suitably designated,

=====
enclosed and screened from view from public roads and adjacent properties.

- 9) Any Manufactured Home Community development shall set aside a minimum of ten percent (10%) of the total acreage for the provision of park and/or recreational facilities. If the conditions of the proposed site make the provision of such recreation area impossible, the Planning Board may, in its sole discretion, accept a cash contribution to the Town of Perth for the development of recreational facilities in another appropriate location, such contribution to be reserved by the Town solely for such purpose.
- 10) Utilities shall conform to the following requirements:
 - a) Every site shall be serviced by a private or public potable water supply approved by the New York State Department of Health.
 - b) An electrical connection shall be provided at each site. The installation of said connection shall comply with National, state and local electrical codes.
 - c) All utility distribution lines shall be placed below ground, including telephone and cable TV. No overhead distribution lines shall be allowed.
- 11) An adequate system of storm drainage pipes, ditches and appurtenances shall be provided. All runoff shall be conducted to a suitable natural stream or outlet where the community has rights of discharge.
- 12) Exposed ground surfaces in all parts of the community shall be paved, surfaced with crushed stone or other material approved by the Town of Perth or protected with grass or plant material capable of preventing erosion and eliminating objectionable dust and mud.
- 13) Each home site shall be provided with at least one (1) living tree or shrub, the kind, size and location thereof to be designated on the site plan approved by the Planning Board.
- 14) All proposed landscaped areas shall be clearly indicated on the site plan, and the type of treatment (grass, shrubs, ground cover, etc.) shall be specified.
- 15) Storage on each home site shall be limited to an accessory building containing not more than one hundred fifty (150) square feet of space.



- 16) All accessory structures shall be located in the rear or side yard of the individual home site. Minimum setback for an accessory building shall be three (3) feet from rear and side site lines of the individual home site.
 - 17) Home site additions, including but not limited to increase of living space, erection of a storm shelter, seasonal enclosure, separate awnings, canopies or unenclosed patios are prohibited unless and until a permit has been secured from the Code Enforcement Officer after prior written approval has been granted by the Mobile Home Community permittee or his designated representative.
- i. Supplemental Standards for Operation and Maintenance of Manufactured Home Communities
- 1) All landscaping features incorporated into the site plan as approved by the Planning Board shall be maintained in a healthy condition. Trees, grass or shrubs that die shall be replaced as promptly as possible, considering seasonal conditions.
 - 2) The owner shall remove snow and ice from primary access roads and all internal community streets within 24 hours of the cessation of any storm event and shall maintain all roads and streets in a manner which allows full access to emergency vehicles at all times.
 - 3) The storage, collection and disposal of refuse in the community shall be so managed as to create no health or accident hazards, rodent harborage, insect breeding area or pollution of air or water. All refuse shall be stored in fly tight, watertight, rodent proof containers, which shall be provided in sufficient number and capacity to prevent any refuse from overflowing.
 - 4) Parking on all access roads and internal community streets shall be prohibited, and such prohibition shall be enforced by the Permittee or his designated representative.
 - 5) In every community, there shall be a building in which shall be located the office of the operator or person in charge of the said community. A manufactured home may be approved by the Town Board to serve as said office instead of a separate building, but it must clearly be identified as such.
 - 6) The Permittee or his designated operator of the Manufactured Home Community shall:
 - a) Maintain records in accordance with requirements of the New York State Division of Housing and Community Renewal.

- b) Maintain the community in a clean, orderly and sanitary condition at all times.
 - c) Prohibit the permanent use of any home by a greater number of persons than it is designed to accommodate.
 - d) Inform occupants of their rights and responsibilities regarding any restrictions, rules, regulations, and/or lease covenants and facilitate strict compliance with all such conditions.
 - e) Assure that essential community services, such as mail drop and police and fire protection, are provided.
- 7) Any change to lot locations, additions or tenant changes requires the issuance of two (2) copies of the community lot layout which shall identify lot locations and the associated 911 address. One (1) copy shall be used for town records and the other shall be provided to the Town of Perth Fire Department.

Before an approved Manufactured Home Community commences operation, the Code Enforcement Officer shall inspect the site to verify that all requirements and conditions of the Special Use Permit been satisfied. Operations shall not commence until such inspection has been completed to the satisfaction of the Code Enforcement Officer.

If the Code Enforcement Officer finds that a Manufactured Home Community is not being maintained in a clean, orderly and sanitary condition or that such Manufactured Home Community is not being operated in accordance with the provisions of this law or its Special Use Permit, he/she shall serve upon the Permittee or his agent an order in writing directing that condition(s) therein specified be remedied within fifteen (15) working days of service of such order. If, after the expiration of said period, such conditions are not corrected in accordance with the said order, the Code Enforcement Officer shall serve a notice in writing upon such Manufactured Home Community Permittee, requiring the Permittee to appear before the Town Board at a time to be specified in such notice and show cause why said Special Use Permit should not be revoked.

2. TELECOMMUNICATIONS FACILITIES, including radio, television, and/or personal communications or electronic data receiving and/or transmitting towers or antennae with height in excess of 40 feet, measured from existing ground elevation.

a. The purposes of the Special Use Permit Process as applied to Telecommunications Facilities are as follows:

- 1) To minimize the total number of communications towers in the Town, while allowing for adequate coverage;
- 2) To require the co-location or shared use of existing and proposed tower sites wherever possible;
- 3) To require the location of towers and antennas in areas where the adverse impacts to the community are minimized;
- 4) To require the configuration of towers and antennas and their sites to minimize adverse visual impacts;
- 5) To allow for adequate provision of telecommunication services within the Town.

These requirements are not intended to prohibit or have the effect of prohibiting the provision of personal wireless services nor shall they be used to unreasonably discriminate among providers of functionally equivalent services consistent with current federal regulations.

b. Application Requirements

All applications for Special Use Permits for Telecommunications Towers and/or Facilities shall be accompanied by the following items:

- 1) Description of the applicant's long range plans including projected market demand and long range facility expansion needs within the Town.
- 2) Proof of certified mail announcements to all other telecommunications providers in the area both declaring the applicant's sharing capabilities and/or siting needs.
- 3) Certification by a Professional Engineer licensed in the State of New York that the facility will comply with Federal Communications Commission (FCC) regulations for radio frequency ("RF") emissions.

- =====
- 4) Letter of intent committing the tower owner and his/her successors in interest to notify the Code Enforcement Officer within thirty (30) days of the discontinuance of use of the tower. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit. The owner shall remove obsolete or unused towers and accessory structures from any site within four (4) months of such notification. Failure to notify and/or to remove the obsolete or unused tower or other facilities in accordance with these regulations shall be a violation of this chapter and shall be punishable by a fine that is not to exceed the cost incurred by the Town for removal of the unused or obsolete structure.

 - 5) State Environmental Quality Review Act (SEQR) Full Environmental Assessment Form and Visual Environmental Assessment Form, including landscaping plan and photographic assessment of visibility of the proposed structure(s) from key viewpoints identified in the Visual EAF, existing tree lines, and proposed elevations.

 - 6) Engineering and Siting Report and drawings prepared by a Professional Engineer licensed in the State of New York. The following issues shall be discussed:
 - a) Site Selection:
 - (1) Identification of coverage gaps and/or target coverage areas to be serviced by the proposed facilities;
 - (2) Mapping of all potential location areas from which the target coverage areas can be serviced;
 - (3) Discussion of existing telecommunications and other structures potentially suitable for facility placement (location, ownership, usage, suitability, etc), potential co-location sites on or adjacent to sites with existing telecommunications structures, and alternative sites considered in terms of siting priorities;
 - (4) Mapping of existing and projected radio frequency (RF) coverage in the Town, with and without proposed facilities, and for the proposed site and all other reasonable locations requested by the Planning Board;
 - (5) Copy of applicant's Federal Communications Commission (FCC) license for the proposed facilities;

-
- (6) Surrounding topography in relationship to line of sight transmission,
 - (7) Available road access, electric power and land-based telephone lines and/or microwave link capability for sites and structures considered for location;

b) Site and Facility Design

The Special Use Permit shall include a Site Plan which shall be subject to review and approval by the Planning Board pursuant to Article IV of this local law, including :

- (1) plans and full site design for all proposed telecommunications accessory equipment buildings or structures and landscaping;
- (2) proposed visual mitigation measures;
- (3) For new telecommunications tower, tower height and design including a cross-section of the structure, compliance with applicable structural standards, and tower capacity (including capacity for the number and type of antennas and basis for calculation of such capacity);
- (4) For antenna to be mounted on existing structures, the suitability of existing structure for the new equipment, the structural capacity of the existing structure to accept the new equipment, the proposed method of affixing the new equipment to the structure, complete details of all fixtures and couplings, and the precise point of attachment.

c) Design and Siting Standards

- (1) Co-location required: Whenever possible, new telecommunication facilities shall be sited on existing telecommunication facilities or in areas already in use for telecommunication and/or utility distribution lines in order to preserve the aesthetic and scenic value of the Town, except in cases where coverage, mechanical, structural or regulatory factors prevent co-location.

-
- (2) Location Priority: Applicants for telecommunication towers shall locate, erect and site towers in accordance with the following priorities with (a) being the highest priority and (h) being the lowest priority.
- (a) co-location on existing telecommunications towers or other structures
 - (b) co-location on a site with existing telecommunications towers or structures
 - (c) in areas adjacent to existing towers or structures
 - (d) on Town of Perth properties
 - (e) in areas adjacent to manufacturing or industrial uses
 - (f) in areas adjacent to commercial uses
 - (g) on developed municipal properties
 - on Fulton County properties
 - New York State properties
 - (h) in agricultural areas
 - (i) in areas adjacent to residential uses

Upon filing an application for a permit for a telecommunication tower, the applicant shall submit a report supporting the reason for the site selection. If the site selected is not the highest priority, a detailed explanation as to why sites of a higher priority were not selected shall be included in the application.

Notwithstanding the above, the Town Planning Board may approve a site location within the list of priority areas if the alternative site provides reasonable services and meets the minimum needs of the service provider and the Board, in writing, finds it is in the best interest of the health, safety, and general welfare of the Town.

- (3) Separation Distance: Telecommunication facilities shall be separated from the property lines of existing residential dwellings by a distance of no less than 800 feet.

- (4) Setbacks: All telecommunication facilities shall be set back from all property lines a distance no less than 150% of the tower fall zone (as certified by an engineer licensed in the State of New York) or a minimum of 500 feet, whichever is greater. Additional set backs may be required by the Town Planning Board in order to provide for the public safety, health and welfare.
- 5) Minimal Visual Impacts: All telecommunications towers and telecommunications antennas shall be sited to have the least possible visual effect on the environment.
- 6) Height: The height of telecommunication sites shall be limited to the minimum required to provide the proposed telecommunication services including co-location. No telecommunication tower shall be of such height as to require lighting pursuant to the regulations of the Federal Aviation Administration or any other federal, state or local authority.
- (7) Material and Color. Telecommunications towers and telecommunication antennas shall be of a galvanized gray painted finish above the surrounding tree lines, and brown, gray or green below the tree lines. Antennae and mountings on the tower shall be non-reflective and of appropriate color to blend with their background unless otherwise required to meet Federal Aviation Administration requirements.
- (8) Signs. No portion of any telecommunication tower and/or facilities shall be used for advertising purposes nor shall any advertising material or signs be located on any telecommunications site.
- (9) Screening
 - (a) Vegetative Screening
 - Telecommunications facilities and surrounding fencing shall be fully screened by a combination of continuous native evergreen plantings and earthen berms with a minimum screening height of six (6) feet at planting and capable of forming a continuous hedge at least ten (10) feet in height at maturity.

- Additional screening may be required by the Town Planning Board at their sole discretion to screen portions of the telecommunications tower and/or other facilities from residential property or important views.

- (b) Architectural Screening. Creative design measures to camouflage facilities by integrating with existing buildings and among other existing uses shall be utilized wherever feasible.

(10) Vehicle Access

- (a) Existing roadways shall be used for access to the site whenever possible.
- (b) New access roads shall comply with the following standards:

Road bed:

- Twelve inches (12") well graded bank run gravel or #2 crushed stone;
- Driving surface minimum of twelve feet (12') width;
- Ditch-to-ditch minimum roadway width twenty feet (20').

Drainage

- Culverts minimum eighteen inches (18") diameter
- Culverts minimum thirty feet (30') length
- Ditches minimum depth two feet (2') below road centerline

Intersection with public road

- ninety (90) degree angles for first twenty feet (20')
- minimum return radius of fifteen feet (15')
- sight easements to be provided

Curves

- minimum radius fifty feet (50')
- maximum grade on curve six percent (6%)

Maximum Grade



- three percent (3%) within twenty-five (25) feet of any public road
- twelve percent (12%) at any point

Turnouts: 16'x 50' surfaced turnout for roads over 200 feet long, located mid-way along access road

Right-of-Way: forty feet (40') minimum width

- (11) Telecommunications Antennas: Due to their high visibility, dish and parabolic telecommunications antennas shall be located at the minimum elevation possible without compromising the function of the device, preferably on the sides of buildings or ground mounted below ridge lines wherever possible, rather than elevated on telecommunications towers. Microwave and satellite dishes shall be of mesh construction wherever possible.
- (12) Utility Service. Electrical service and land-based telephone and/or microwave utilities extended to serve telecommunication sites shall be installed underground unless the applicant demonstrates conclusively that such installation is manifestly impossible at the site selected. Additional cost of underground installation shall not be sufficient reason for overhead service.
- (13) Security Provisions. Security provisions shall include, at minimum, fencing of at least eight (8) feet in height, anti-climbing devices or elevating ladders on telecommunications towers, and monitoring either by staff or electronic devices to prevent unauthorized access and vandalism, unless such measures are affirmatively waived by the Planning Board at the request of the applicant.
- (14) Noise: Noise producing equipment shall be sited and/or insulated to minimize noise impacts on adjacent properties.



3. MINOR MINING OPERATIONS, defined as 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.
 - a. Site Design Standards for Minor Extraction of Mineral Resources:
 - 1) All mining operations shall be set back not less than two hundred fifty (250) feet from all property and street lines.
 - 2) The area between the proposed mining operation and all street and all property boundaries within five hundred (500) feet shall include a continuous strip (except for an opening not more than fifty (50) feet wide for vehicular access) not less than twenty (20) feet wide planted with evergreen trees or shrubs spaced as close together as appropriate for the species selected by the applicant, subject to Planning Board approval, and capable of reaching not less than ten (10) feet in height at maturity.

4. LANDSPREADING OF SEWAGE SLUDGE OR BIOSOLIDS

- a. Placement or spreading on land of domestic, commercial, or industrial septage, liquid or solids from any septic tank, or grease from commercial grease traps is prohibited in the Town of Perth under all circumstances.
- b. No Special Use Permit shall be issued by the Planning Board for the placement or spreading on land of sewage sludge, biosolids or treated products thereof unless and until all of the following conditions have been satisfied:
 - 1) All such material has been subjected to one of the "Processes to Significantly Reduce Pathogens (PSRP)" described in the USEPA regulations (40 CFR Chapter I, Subchapter O, Part 503, Appendix B); and
 - 2) All such material has been subjected to the requirements described in the USEPA regulations for bulk sewage to be applied to lawn or home garden (40 CFR Chapter I, Subchapter O, Part 503, Subpart D, Sec. 503.33, items B.1. through B.7); and
 - 3) The person, organization, agency, or corporation supplying the material to be spread must provide to the Planning Board a certified copy of current test results indicating that the material to be spread meets USEPA Class A pathogen requirements (40 CFR Chapter I, Subchapter O, Part 503, Subpart D: Pathogens and Vector Attraction Reduction, Sec. 503.32) prior to landspreading; and
 - 4) The treatment process to which such material has been subjected is subject to permitting and regulation by NYSDEC pursuant to 6 NYCRR Part 360, all testing is current and indicates full compliance with the standards found therein.
 - 5) The applicant shall submit written documentation satisfactory to the Planning Board with the Special Use Permit application indicating that Items a) through d) above have been satisfied.
- c. Regardless of level of treatment, no sewage sludge or biosolids shall be spread on land within 50 feet of any property line or within two hundred fifty (250) feet of any surface water body, well or other drinking water source.

=====

D. PROCEDURE FOR SPECIAL USE PERMITS

1. Application

Application for all Special Use Permits shall be submitted to the Planning Board and shall include the following:

- a. An area map showing the parcel subject to the application, and all properties, subdivisions, streets and easements within two hundred fifty (250) feet of the boundaries thereof. Such map shall be oriented to the nearest highway intersection.
- b. The general slope of the parcel under consideration and a notation giving the estimated percentage of slope on the parcel.
- c. A written statement and sketch plan describing the proposed development of the site.
- d. Such additional information as needed for other reviews or submittals required under state, federal, or local laws and regulations.
- e. Such other information as the Planning Board considers relevant to their review.
- f. No application shall be considered complete for purposes of review, approval, and issuance of the Special Use Permit until a Negative Declaration or Findings Statement has been issued by the Planning Board consistent with the New York State Environmental Quality Review Act and regulations pursuant thereto (SEQR).
- g. No application shall be considered complete for purposes of review, approval, and issuance of the Special Use Permit until review and approval of the subject Site Plan has been completed by the Planning Board pursuant to Article V of this local law.

2. Planning Board Review of Special Use Permit Application

- a. The Planning Board shall meet with the applicant to discuss the plans for development subject to the application.
- b. Within sixty-two (62) days of receipt of a complete application, the Planning Board shall conduct a public hearing on the Special Use Permit application, complying with the notice requirements described at Section 274-b(6) of the New York Town Law.

-
- c. Within sixty-two (62) days of the close of the public hearing, the Planning Board shall approve, with or without conditions, or disapprove the application for Special Use Permit.
 - d. Timeframes for the review and approval of the Special Use permit may be extended by mutual consent of the applicant and the Planning Board.
 - e. If disapproved, the reasons therefore shall be stated in writing on the records of the Planning Board.

=====

Article V: SITE PLAN REVIEW

A. APPLICABILITY

1. No Land Use Permit or Building Permit for any use subject to Site Plan Review shall be issued unless and until a Site Plan has been approved by the Planning Board in accordance with the standards and procedures of this Article.
2. No Special Use Permit shall be issued unless and until a Site Plan has been approved by the Planning Board in accordance with the standards and procedures of this Article.
3. The Planning Board shall not issue a recommendation for approval, with or without conditions or modifications, of any Planned Unit Development proposal to the Town Board unless and until the Preliminary Site Plan has been approved by the Planning Board in accordance with the standards and procedures of this Article.
4. An applicant may request, in writing, a waiver or modification of any of the site plan review standards. The Planning Board reserves the right to waive or otherwise modify such standards upon a finding that such action is necessary to eliminate practical difficulties associated with strict interpretation of these provisions and that the result will not violate the spirit and intent of these provisions. Such request shall set forth the specific relief sought and the reasons the same is necessary.

B. PROCEDURES AND STANDARDS

1. Sketch Plan Conference

A Sketch Plan Conference shall be held between the Planning Board and applicant to review the basic site design concept, to determine the information required for inclusion on the Preliminary Site Plan, and to settle certain procedural questions relative to site plan submittal and review.

2. The following information shall be provided by the applicant for consideration at the Sketch Plan Conference:
 - a. An area map showing the parcel subject to site plan review, and all properties, subdivisions, streets and easements within two hundred (250) feet of the boundaries thereof. Such area map shall be oriented to the nearest highway intersection.
 - b. The general slope of the parcel under consideration and a notation giving the estimated percentage of slope on the parcel.

- =====
- c. A written statement and sketch plan describing the proposed development of the site, including any legal steps or mechanisms to remove land from future development in order to comply with the Density Standard of this law.
 - d. Such additional information as needed for other reviews or submittals required under state, federal, or local laws and regulations.
3. The following shall be determined by the Planning Board at the Sketch Plan Conference:
- a. The general acceptability of the proposed Site Plan pursuant to the requirements of this law.
 - b. The information from the requirement check list to be included on or with the Preliminary Site Plan to constitute a complete submittal.
 - c. The contour interval (if any) to be used on the Preliminary Site Plan.
 - d. Whether an outside consultant is needed for review of the Preliminary and/or Final Site Plan:
 - 1) The following factors shall be considered in determining the need for such services:
 - a) the complexity and scope of the proposed project;
 - b) unusual or unique conditions on the site and surrounding property;
 - c) whether the Preliminary and Final Site Plans are to be prepared by a landscape architect, architect, professional engineer, or surveyor licensed in the State of New York;
 - d) such other factors as the Planning Board considers relevant.
 - 2) If the Planning Board determines that the services of an outside consultant are necessary for review of the Preliminary and/or Final Site Plan, the applicant shall be informed in writing of such determination and of the estimate of reimbursable costs for such services.
 - e. If requested by the applicant, whether the Sketch Plan as submitted is sufficient to meet the requirements for the Preliminary Site Plan and shall be accepted and/or approved as the Preliminary Site Plan application.
 - f. The classification of the proposed site plan/project for purposes of SEQR, and the necessary Environmental Assessment Form and supplemental environmental information to be submitted with the Preliminary Site Plan Application.

- g. Other reviews, referrals, submittals or notifications required pursuant to federal, state or local laws or regulations.

- 4. In order to provide for appropriate site visits by its members or consultants, to determine the necessity and/or cost of reimbursable consultant services, or to gather or receive additional information, the Planning Board may recess the Sketch Plan Conference. In such cases, the reconvening of said conference shall be considered a continuation of the same Sketch Plan Conference.

C. PRELIMINARY SITE PLAN

- 1. Pursuant to Sections 7209 and 7307 of the NYS Education Law, the Preliminary Site Plan shall be prepared by a landscape architect, architect, professional engineer or land surveyor licensed in the State of New York unless:
 - a. The proposed structure is a farm building to be used directly and solely for agricultural purposes, not including retail sales of agricultural products; or
 - b. The proposed structure is a residential building of gross floor area of fifteen hundred (1500) square feet or less; or
 - c. The proposed project is an alteration to an existing structure, costing ten thousand dollars (\$10,000) or less, which does not involve changes affecting structural safety or public safety thereof.
- 2. The Preliminary Site Plan shall include or be accompanied by such information from the following checklist as deemed necessary by the Planning Board at the Sketch Plan Conference.
 - a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
 - b. North arrow, date and written and graphic scale;
 - c. Boundaries of the property plotted to scale;
 - d. Existing watercourses, flood prone areas as described by the Federal Emergency Management Administration mapping, and New York State regulated wetlands;
 - e. Description of existing vegetative cover and location of all existing trees over 8" in diameter;

-
- f. Location of other significant natural or man-made features of historical, cultural or environmental importance or interest which exist on or near the site;
 - g. Location of existing uses and outlines of structures, drawn to scale, on the site and within two hundred fifty (250) feet of the lot line;
 - h. Location and description of other existing development on the site, including fences, landscaping and screening;
 - g. Grading and drainage plan, showing existing and proposed contours at an appropriate interval to be specified by the Planning Board and referenced to USGS datum elevations;
 - h. Location, proposed use and height of all structures;
 - i. Location, size, and planned improvements, if any, of portions of the site to be devoted to open space or recreation areas;
 - j. Location, design and construction materials of all parking and loading areas with access and egress routes thereto, of all access drives to and from the site (including proposed cross access to adjacent properties), and location of all intersections and access drives to the same public road located within 500 feet of the proposed development;
 - k. Provisions for pedestrian access and sidewalks;
 - l. Location of outdoor storage, if any;
 - m. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
 - n. Description of the location and method of sewage disposal;
 - o. Description of the location and method of securing water;
 - p. Location of fire and other emergency zones and services, including the location of fire hydrants and other sources of water for fire purposes;
 - q. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
 - r. Location, size, height, illumination (if any), design and construction materials of all proposed signage;

-
- s. Landscape planting plan showing planting areas and specifying plant types and/or species;
 - t. Location, design and specification and proposed hours of outdoor lighting, if any, including lighting diagrams showing the level and intensity of all outdoor lighting and all potential light trespass;
 - u. Illustrations or sketches of proposed street furniture, if any;
 - v. Proposed financing and/or financial plan, schedule for development, tenure of buildings or structures after construction, and necessary political or legal steps necessary to complete the project including the proposed legal documents or agreements necessary to remove land from future development in order to comply with the Density Standard of this law.
 - w. Other information as deemed necessary by the Planning Board.

D. PLANNING BOARD REVIEW OF PRELIMINARY SITE PLAN

The Planning Board shall review the Preliminary Site Plan and shall determine whether the applicant has met the following criteria for approval. Where necessary, the Planning Board shall require such modifications of the Site Plan as are determined necessary to meet the criteria for approval.

1. Adequacy of layout and design of vehicular and pedestrian access and circulation including intersections, road widths, pavement surfaces, traffic controls, walkway structures, and overall pedestrian convenience. Vehicle access to and from the site shall be reviewed by the Planning Board in accordance with "Design Guidelines: Access Management" or such successor document adopted by said Planning Board with approval of the Town Board. Current "Design Guidelines" shall be available to the public at the Town Office.
2. Adequacy of layout and design of off-street parking, loading, lighting, signage, and general relationship with proposed and existing structures.

Outdoor lighting shall be designed to eliminate light trespass onto adjacent properties and public highways, including the use of full cutoff luminaires and limiting the height of mounting locations on poles, buildings, or other support structures to the absolute minimum adequate for the proposed project.

Signs in the Commercial-Residential District shall not exceed eighteen (18) feet in height, measured from the ground to the highest point of the sign, and shall be set back from the highway right-of-way at least fifteen (15) feet when not mounted to a building, unless such standards are subsequently modified by general rule of the Planning Board. Signs in the

=====

Agricultural-Rural Residential District shall not exceed five (5) feet in height, measured from the ground to the highest point of the sign, and shall be set back from the highway right-of-way at least ten (10) feet, unless such standards are subsequently modified by general rule of the Planning Board.

3. Adequacy of stormwater and drainage facilities, water supply, and sewage disposal facilities.
4. Adequacy of type and use of trees, shrubbery and other landscape elements for aesthetic, screening or buffering purposes and the relationship with existing trees and vegetation, which shall be incorporated to the maximum possible extent.
5. Adequacy of provision of open space and recreational areas, when appropriate.
6. Adequacy of protection of adjacent properties from noise, glare, light trespass, unsightliness or other objectionable features.
7. Adequacy of provisions for emergency vehicular zones and fire fighting access.
8. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, slippage, and/or erosion.
9. For new construction, the layout and location of underground cables, such as electric, telephone, cable T.V., etc.
10. Adequacy and appropriateness of legal mechanisms proposed to remove land from future development in order to comply with the Density Standard of this law.

E. CONSULTANT REVIEW

The Planning Board may consult with the Code Enforcement Officer, Fire Chief, the Superintendent of Highways, the Town Attorney, the Town Board, other Local and County Officials and/or the Board's designated private consultants, in addition to representatives of federal and state agencies, including, but not limited to, the Natural Resources Conservation Service, U.S. Army Corps of Engineers, NYS Department of Transportation, NYS Department of Environmental Conservation and/or NYS Office of Parks, Recreation, and Historic Preservation to assist in the review of the Preliminary Site Plan.

F. PUBLIC HEARING

The Planning Board, if it deems appropriate, may conduct a public hearing on the Preliminary Site Plan. Such public hearing shall be conducted within sixty-two (62) days of the receipt of the complete Preliminary Site Plan and application for its approval. The Planning Board shall mail

=====

notice to the applicant at least ten (10) days prior to said hearing and shall publish notice in the official newspaper of the Town at least five (5) days before said hearing.

1. Time of submission shall be the date on which the Preliminary Site Plan, all supplemental materials required by the Planning Board, the final determination and finding pursuant to SEQR, and the estimated amount of reimbursable costs and all applicable fees are received by the Planning Board.
2. In those cases where the Planning Board is required to refer the application for Site Plan approval to any outside planning agency for review pursuant to New York State Law, the time within which the Planning Board must take action(s) shall not begin until receipt by the Planning Board of the recommendation of said outside agency or the expiration of the allotted time for such review.

G. PLANNING BOARD ACTION ON PRELIMINARY SITE PLAN

1. Within sixty-two (62) days of said public hearing, if held, or from the date of receipt of the complete Preliminary Site Plan and application for approval, the Planning Board shall approve, approve with modifications, or disapprove the Preliminary Site Plan.
2. If the Preliminary Site Plan is disapproved, the Planning Board shall state in writing and for the public record the reasons for such denial. In such case, the Planning Board may recommend further study of the Site Plan and resubmission to the Planning Board after revision or redesign.
3. If the Preliminary Site Plan is approved with modifications, the inclusions of all such modifications in the Final Site Plan shall be considered a condition of approval, and no Final Site Plan shall be considered for approval without inclusion of such modifications.

H. FINAL SITE PLAN

After approval of the Preliminary Site Plan by the Planning Board, the applicant shall submit a Final Site Plan subject to the following requirements:

1. The Final Site Plan shall be submitted no more than six (6) months after approval of the Preliminary Site Plan. If the prescribed time period has elapsed or conditions have changed substantially in the interim, the Planning Board may, at its sole discretion, require resubmission of the Preliminary Site Plan for further review and revision prior to accepting the Final Site Plan for review.
2. The Final Site Plan shall conform substantially to the Preliminary Site Plan as approved, and shall incorporate all modifications that may have been required by the Planning Board

=====

as conditions of approval. All such required modifications shall be clearly indicated on the Final Site Plan.

3. The following information, in addition to that included in or as conditions of approval of the Preliminary Site Plan, shall be included in the complete Final Site Plan submitted for approval:
 - a. Record of application for and approval status of all necessary permits from federal, state and county officials and/or agencies;
 - b. Detailed sizing and final material specifications of all required improvements;
 - c. An estimated project construction schedule.
4. If the Preliminary Site Plan is approved as submitted and without modification, and if it includes all additional information required for a complete Final Site Plan, the Planning Board may, at its sole discretion, accept the approved Preliminary Site Plan as the Final Site Plan for their review.

I. PLANNING BOARD ACTION ON FINAL SITE PLAN

1. Within sixty two (62) days of receipt of the complete Final Site Plan and application for approval, the Planning Board shall approve or disapprove the Final Site Plan.
2. The prescribed time period for Planning Board action may be extended with the mutual agreement of the Planning Board and applicant or if other reviews, referrals, submittals, or notifications required under federal, state, or local laws or regulations have not been completed.
3. If the Final Site Plan is disapproved, the Planning Board shall present the reasons for disapproval in writing to the applicant and for the public record.
4. Upon Planning Board approval of the Final Site Plan and payment by the applicant to the Town of all fees and reimbursable costs, the Planning Board shall forward one copy of the Final Site Plan with its approval to the Zoning Board of Appeals, Code Enforcement Officer, and/or the Town Board, as appropriate.

J. REIMBURSABLE COSTS

1. Costs or fees incurred by the Planning Board for necessary consultant services or other extraordinary expenses in connection with the review of a proposed Site Plan shall be paid by the applicant, provided that the necessity of such services has been determined and the cost of such fees or expense has been estimated by the Planning Board after the

=====
Sketch Plan Conference, and the applicant has been informed of the estimate in writing, either by entry in the Planning Board minutes or otherwise

2. Such reimbursable costs shall be in addition to any application fee schedule established by the Planning Board and shall be paid prior to the release of the approved Final Site Plan to the Code Enforcement Officer.
3. No Land Use Permit or Building Permit shall be issued for any proposed construction for which fees or reimbursable costs are lawfully due to the Town and unpaid.
4. When estimating reimbursable costs, the Planning Board shall consider only such engineering and legal fees as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of developments and the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments. For purpose of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys to the Town or other towns for services performed in connection with the approval or construction of similar developments and in this regard the Planning Board may take into consideration the size, type and number of buildings to be constructed, the amount of time to complete the development, the topography of the land on which such development is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities and parks to be constructed and any special conditions or considerations as the Planning Board may deem relevant; and a fee or part thereof is necessarily incurred if it was charged by the engineer or attorney for a service which was rendered in order to protect or promote the health, safety of other vital interests of the residents of the Town.

ARTICLE VI: PLANNED UNIT DEVELOPMENT

A. SCOPE AND PURPOSE

A Planned Unit Development (PUD) shall be treated as an amendment to this Zoning Law. The PUD is intended to accommodate large scale commercial, manufacturing, residential or mixed uses that will be of benefit to the community but which could not have been anticipated, or the location of which could not have been anticipated, at the time of adoption of this Local Law. The PUD shall only be utilized for the development of solely residential uses when the proposed PUD includes multiple types of housing types, affordability levels, and/or tenures.

B. PROCEDURE

1. Application for Planned Unit Development

The applicant for a Planned Unit Development shall submit the following materials to the Planning Board:

- a. All materials and information required for Site Plan Review pursuant to Article V of this local law.
- b. A written explanation of the character and purpose of the Planned Unit Development including the type, density, affordability level, and tenure of any housing proposed, commercial or manufacturing uses proposed, open space to be provided, the water and sewage disposal system proposed, a general statement of proposed financing, and the proposed schedule for development.

2. Review of Application

a. Review by Planning Board

The Planning Board shall utilize the procedure for Site Plan Review as described in Article V Site Plan Review of this Local Law until review of the Preliminary Site Plan has been completed, and the Preliminary Site Plan has been approved, approved with modifications, or disapproved.

b. Recommendation to Town Board

Within sixty-two (62) days of completion of Preliminary Site Plan review of the proposed Planned Unit Development pursuant to Article V of this law, the Planning Board shall recommend to the Town Board approval or disapproval of the PUD.

- 1) Such recommendation shall be in the form of a proposed local law amending the Zoning Law and Zoning Map to create the PUD.
- 2) Such proposed local law shall include recommended conditions, covenants and/or type and amount of performance guarantees which should be provided by the applicant as conditions of PUD approval.
- 3) One such recommended condition shall be, in all cases, Final Site Plan review and approval by the Planning Board.
- 4) Said proposed local law shall have as its effective date the date on which the Planning Board issues a finding that all conditions specified in said local law as enacted have been satisfied.

3. Approval by Town Board

Within forty five (45) days after receipt from the Planning Board of the proposed local law creating the PUD, the Town Board shall hold a public hearing on the proposal, subject to the notice requirements of Section 264 of the Town Law and this local law. Within sixty-two (62) days of the completion of the public hearing, the Town Board shall approve or disapprove the proposed PUD.

- a. Town Board approval of the PUD, if issued, shall constitute a fully enacted local law amending the Zoning Law and Zoning Map pursuant to the New York State Municipal Home Rule Law.
- b. Upon enactment of the local law creating the PUD, the location of the PUD and the conditions attached to its enactment shall be noted on the Zoning Map. Said local law shall NOT be filed with the New York Secretary of State until the Planning Board issues a finding that all conditions for the PUD included in the local law as enacted have been satisfied.
- c. The effective date of said local law shall be the date on which the Planning Board issues a finding that all conditions for the PUD included in the local law as enacted have been satisfied.

4. Referral back to Planning Board

Upon enactment of the local law creating the PUD by the Town Board, said local law shall be referred back to the Planning Board for review as to compliance with the conditions included therein.

5. Final Review by Planning Board

- a. Upon receipt of the local law as enacted by the Town Board, the Planning Board shall utilize the procedures for Final Site Plan review pursuant to Article IV of this law.
- b. For purposes of the time periods within which the applicant and the Planning Board must take actions during Final Site Plan submission and review, the date of Preliminary Site Plan Approval shall be considered to be the first regularly scheduled Planning Board meeting following enactment of the local law creating the PUD by the Town Board.

6. Planning Board Findings

- a. Planning Board review of the PUD after enactment of the local law shall be limited to determining whether all conditions included in the local law have been satisfied, including Final Site Plan approval.
- b. Upon written Finding by the Planning Board that all conditions included in the local law creating the PUD have been fully satisfied and filing thereof with the Town Clerk, said local law shall become effective and shall be filed with the New York Secretary of State pursuant to law.

C. DEVELOPMENT GUIDELINES FOR PLANNED UNIT DEVELOPMENTS

In reviewing proposals for Planned Unit Developments, the Planning Board will be guided generally by the following standards:

- 1. Residential uses shall only be permissible in a PUD when an integral portion of an overall PUD plan which also includes commercial or manufacturing use, or when multiple housing types, affordability levels, and/or tenures are included.
- 2. The proposed PUD shall have minimum area as follows:
 - a. For a residential PUD, the minimum area shall be five (5) acres.
 - b. For a commercial PUD, the minimum area shall be five (5) acres.
 - c. For a manufacturing PUD, the minimum area shall be ten (10) acres.
 - d. For a mixed use PUD, the minimum area shall be ten (10) acres.

-
3. The Density Standard within the PUD shall be no more than four (4) principal buildings per acre.
 4. At least 30 percent of the gross area of the PUD shall be devoted to open space and/or recreation areas.
 5. Proposed non-residential uses shall be appropriate in size and suitably located and shall not create any adverse effects inside or outside the boundaries of the PUD.
 6. The proposed PUD shall conform to all requirements and standards of Article IV, Site Plan Review, of this law.
 7. Such other standards as are deemed appropriate by the Planning Board.

ARTICLE VII: NON-CONFORMING USES AND STRUCTURES

A. CONTINUATION

1. No use, building or structure which does not conform to all requirements of this local law shall be permitted in the Town of Perth except the following:
 - a. Any non-conforming use, building or structure, other than signs, existing lawfully on the effective date of this law; or
 - b. Any lawful use, building or structure, other than signs, which becomes non-conforming because of subsequent amendment of this law;
2. Certain non-conforming uses, buildings, and structures are subject to additional standards and limitations as specified in this Article.

B. NON-CONFORMING USES

1. Discontinuance or Removal

No non-conforming use which is discontinued or removed for a period of one (1) year or more shall be re-established; except, that any non-conforming use which is discontinued because of fire, flood or other natural disaster for a period not exceeding two (2) years commencing on date of said natural disaster shall not be re-established. Any subsequent use shall conform to this law.

2. Changes

No non-conforming use shall be changed except to a conforming use. When so changed, the non-conforming use may not be resumed.

3. Extension

No non-conforming use shall be enlarged or extended beyond the area occupied by such use on the effective date of this law. A non-conforming use may be extended throughout any part of a building designed for such use if on the effective date of this law a major portion of the building was used for such non-conforming use.

C. NON-CONFORMING BUILDINGS OR STRUCTURES

1. Alterations.

A non-conforming building or structure shall not be enlarged, extended or have exterior alterations beyond the limits of the original building or structure, unless such enlargement, extension, or alteration shall be in accordance with the requirements of this local law.

2. Reconstruction

A non-conforming building may be reconstructed to its original dimensions, subject to Site Plan Review pursuant to this local law. The purpose of Site Plan Review is to provide the Planning Board the opportunity to reduce the level of non-conformance of the building. In no case, shall the level of non-conformance be increased, nor does this section imply any modification of this Article as to discontinuance, removal, modification or extension of a non-conforming use.

D. NON-CONFORMING SIGNS

1. Any sign of a type not permitted, or of a permitted type that does not comply with the height, area, or setback requirements of this local law shall be modified to conform thereto or removed if any of the following occurs:

- a. There is a change of use of the property where the original use was advertised by the sign; or
- b. There is a change of location of the business being advertised by the sign; or
- c. There is replacement of the sign.

2. Immediately upon the occurrence of any of the events described above, such signs shall be removed or modified to comply with the requirements of this local law or be subject to all penalties and enforcement procedures described herein.

E. REPAIRS AND MAINTENANCE

Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any use or building, or the issuance of a Building Permit for major structural alterations or demolitions necessary in the interest of public safety, and pursuant to other applicable sections of this local law.

ARTICLE VIII: ADMINISTRATION AND ENFORCEMENT

A. CODE ENFORCEMENT OFFICER

The position of Code Enforcement Officer is hereby created. The Town Supervisor shall appoint the Code Enforcement Officer, subject to approval of the Town Board, to administer and enforce the provisions of this Local Law.

The Code Enforcement Officer shall have the following powers and duties:

1. Rules, Regulations, Forms and Fee Schedules

The Code Enforcement Officer, subject to the approval of the Town Board, shall have the authority to make and adopt such rules, regulations, forms and fee schedules as deemed necessary for the proper enforcement and administration of this Local Law and to secure its stated purposes and intent. Such rules, regulations, forms and fee schedules shall not conflict with the provisions of this Local Law or any other Local Law of the Town of Perth nor shall they have the effect of waiving any provisions of this Local Law or any other Local Law. Such rules, regulations, forms and fee schedules shall be submitted to the Town Board by the Code Enforcement Officer, which shall move to approve, reject, or modify such rules, regulations, forms, and fee schedules within sixty (60) days after submission. Failure to act within the prescribed time period shall be construed to constitute approval. The rules, regulations, forms and fee schedules as submitted to and approved by the Town Board shall be on file and available to the public.

2. Issuance of Permits

The Code Enforcement Officer shall issue the following certificates and permits upon fulfillment of the requirements of this local law and of applicable federal, state or other local laws:

- a. Land Use Permits, pursuant to this Article;
- b. Land Use Compliance Certificate, pursuant to this Article;
- c. Building Permits, pursuant to the NYS Uniform Fire Prevention and Building Code;
- d. Certificates of Occupancy, pursuant to the NYS Uniform Fire Prevention and Building Code;
- e. Such other permits as may be established by amendment to this local law.

3. Inspections

The Code Enforcement Officer or his duly authorized representative shall have the right to enter any building or enter upon any land at any reasonable hour as necessary in the execution of his duties, provided that:

- a. The Code Enforcement Officer shall notify, or attempt to notify, the owner and/or tenant before conducting any inspection;
- b. The Code Enforcement Officer or his duly authorized representative shall display identification signed by the Town Clerk upon commencing an inspection;
- c. Inspections shall be conducted in the presence of the owner or his representative or tenant, unless it is deemed to be an emergency by the Code Enforcement Officer, or the owner or his representative cannot or will not meet with the Code Enforcement Officer.

Nothing in this section is intended to supersede any constitutional consideration.

4. Records

The Code Enforcement Officer shall maintain files, open to the public, of all applications for Land Use Permits, Land Use Compliance Certificates, Building Permits, Certificates of Occupancy and other permits, along with any and all plans submitted, as well as final certificates and permits. The Code Enforcement Officer shall also maintain records of every complaint of a violation of the provisions of this local law and action taken as a result of such complaints.

5. Reports

The Code Enforcement Officer shall submit to the Town Board at least quarterly, for insertion into the Board minutes, a written report summarizing all permits or certificates which have been issued, all permits and certificates which have been denied, and the number of violations recorded by him.

B. PERMITS AND CERTIFICATES

1. Land Use Permit

Each Land Use Permit issued shall state that the proposed structure and land use comply with all provisions of this local law.

- a. In all Districts, a Land Use Permit is required whenever:
 - 1) Any structure coming under the provisions of this local law is erected, reconstructed, structurally altered, moved, or demolished, or site work or excavation is commenced in preparation therefore, except that an accessory structure may be demolished without permit;

- 2) Any change in use occurs in an existing building;
 - 3) Any change in use occurs in a non-conforming building;
 - 4) Any vacant land is changed in use or a use is established.
- b. Nothing in this provision shall be interpreted to supersede the requirements of any local law enacted by the Town Board to administer the NYS Uniform Fire Prevention and Building Code.
 - c. All applications for a Land Use Permit shall be accompanied by:
 - 1) Such sketch plans and supporting documentation as the Code Enforcement Officer may require to determine compliance with this local law; and
 - 2) Payment of the fee required for such certificate by the fee schedule established or to be established by the Town of Perth.
 - d. No less than (7) nor more than thirty (30) days after receipt of the complete application, the Code Enforcement Officer shall either issue or deny the Land Use Permit, or, when applicable, refer the application to the Planning Board. If the application is found to be incomplete or the Land Use Permit is denied, the Code Enforcement Officer shall notify the applicant in writing of the reasons for such action.
 - e. If both a Land Use Permit and a Building Permit are required, application for each may be made simultaneously.

2. Building Permit

- a. In all Districts, a Building Permit issued by the Code Enforcement Officer or his duly authorized representative shall be required to erect, reconstruct, restore, structurally alter or demolish any structure, to add additional residential or commercial units or area, or to commence site work or excavation in preparation therefore, except that an accessory structure may be demolished without permit. Normal maintenance of any structure shall not require a Building Permit.
- b. No Building Permit shall be issued unless:
 - 1) The proposed construction, restoration, alteration, demolition, or addition complies fully with all provisions of this local law or has received a variance from the Board of Appeals; and
 - 2) A Land Use Permit has been issued pursuant to this local law; and

- 3) The proposed construction, restoration, alteration, demolition, or addition complies with the requirements of the NYS Uniform Fire Prevention and Building Code, and other applicable federal, state and local laws and regulations.
 - c. Every application for a Building Permit shall contain all information as required, and must be accompanied by:
 - 1) A plot plan showing the exact measurement from the street and lot lines to the foundation or structure;
 - 2) Complete plans for the proposed construction, restoration, alteration, demolition, or addition.
 - 3) Payment of the fee required for such permit by the fee schedule established or to be established by the Town of Perth.
 - d. The Building Permit application and all supporting documentation shall be submitted in such a number of copies as may be required by the Code Enforcement Officer by general rule. Upon issuance of a Building Permit, the Code Enforcement Officer shall return one copy of all filed documents to the applicant.
 - e. No less than seven (7) nor more than thirty (30) days after receipt of the complete application, the Code Enforcement Officer or his duly authorized representative shall issue or deny the Building Permit. If the permit is denied, the Code Enforcement Officer shall notify the applicant in writing of the reasons for its denial.
 - f. If both a Land Use Permit and a Building Permit are required, application may be made simultaneously.
3. Conditions for Issuance of Permits:
- a. No Building Permit or Land Use Permit shall be issued for the construction or alteration of any building upon a lot without access to a public street or highway.
 - b. A Building Permit or Land Use Permit for any structure subject to Site Plan Review shall be issued only in strict conformity with the plans approved by the Planning Board.
 - c. A Building Permit or Land Use Permit issued for any structure permitted subject to a variance granted by the Board of Appeals shall be issued only in strict accordance with all conditions prescribed by the Board of Appeals
4. The Building Permit shall be posted conspicuously and continuously on the work site until the construction project is substantially complete.



5. Every Building Permit (including Demolition Permit) shall expire if the work authorized has not commenced within six (6) months after the date of issuance, or has not been completed within eighteen (18) months from such date for construction costing less than one million dollars (\$1,000,000) and has not been completed within twenty four (24) months from such date for construction costing in excess of such amount.

6. If no amendments to the Zoning Law or to other codes or regulations affecting the property have been enacted in the interim, the Code Enforcement Officer may authorize in writing the extension of either of the above periods for an additional six (6) months, following which no further work is to be undertaken without application for and issuance of all applicable permits anew.

7. Land Use Compliance Certificate

In all districts, no building or structure for which a Land Use Permit has been issued shall be occupied or used unless and until the Code Enforcement Officer issues a Land Use Compliance Certificate. The Land Use Compliance Certificate shall state that the building or structure and all site improvements fully comply with the requirements of this local law, the terms of any variance or site plan approval granted in accordance with this local law, and other applicable federal, state or local laws.

C. REQUIRED INSPECTIONS

During the course of construction of any project subject to a Land Use Permit under this local law, the Code Enforcement Officer or his authorized representative shall make on-site inspections of work in progress at least as follows:

1. As soon as the foundation of a building or of any addition to an existing building is staked or marked, and before the foundation is laid, inspection sufficient to ascertain that said structure complies with the requirements of this law, the site plan as approved by the Planning Board, and any variance issued by the Zoning Board of Appeals.

2. At such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air conditioning systems, fire protection and detector systems, and exit features;

3. At such other times and for such other purposes as required to comply with the NYS Building Code and its implementing regulations and other applicable federal, state or local laws and regulations.

4. Upon substantial completion of the entire project and prior to issuance of a Land Use Compliance Certificate.

D. VIOLATIONS

1. Complaints

Any person may file a complaint with the Code Enforcement Officer regarding a violation of this local law.

- a. All such complaints shall be in writing.
- b. All such complaints shall be investigated by the Code Enforcement Officer and a written report prepared thereon within ten (10) days.
- c. Copies of such report shall be forwarded to The Town Board, the Planning Board, and the Board of Appeals, and one copy shall be maintained in the files of the Code Enforcement Officer and shall be available for public inspection.

2. Notice of Violation

Where a violation of this local law is determined to exist, the Code Enforcement Officer shall serve a Notice of Violation in person or by certified mail, return receipt requested, on the owner, agent or contractor of the building or lot where such violation has been committed or shall exist, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or shall exist; and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure, or lot in which any such violation shall exist.

- a. Such Notice of Violation shall include the following:
 - 1) The specific violation;
 - 2) The time period during which such violation must be corrected;
 - 3) If, in the judgment of the Code Enforcement Officer, circumstances require it, a Stop Work Order.
- b. Such Notice of Violation shall require the removal of the violation within a specified time period. Such time period shall be no less than seven (7) days nor more than thirty (30) days from service of the Notice.
- c. In cases where the removal of the violation within thirty (30) days would be manifestly impossible, the Code Enforcement Officer shall apply to the Board of Appeals for determination of a reasonable period of time within which such violation shall be removed.
- d. If those persons notified shall fail to remove such violation within the allotted time period, the Code Enforcement Officer shall charge them with violation of this law before the appropriate court of law.

3. Stop Work Order:

- a. If, in the judgment of the Code Enforcement Officer, work in progress is in violation or will result in violation of the NYS Building Code, this local law, or terms or conditions of any permit, variance, or site plan approval issued pursuant to this local law, and continuation of such work in progress will or may result in increased violation, irreparable harm, or structures or conditions impossible or unlikely to be removed or corrected, the Code Enforcement Officer shall serve a Stop Work Order on the owner, agent, architect, contractor, and/or any other person involved or assisting in such work in progress and shall post a copy of said Stop Work Order in a conspicuous place on the subject work site.
- b. Upon service or posting of such Stop Work Order, all further work on the subject work site shall cease, except such as is necessary to secure the site and materials, until the violation causing such order has been corrected or removed and the Code Enforcement Officer has served notice in writing that the Stop Work Order has been lifted.
- c. No person shall remove a Stop Work Order posted on a work site unless and until the Code Enforcement Officer has served notice in writing that such Stop Work Order has been lifted.
- d. Continuation or resumption of work on a work site subject to a Stop Work Order lawfully served and/or posted by the Code Enforcement Officer shall constitute a separate violation of this local law and shall be subject to all penalties described in this Article.
- e. In the case of an Appeal for Interpretation to the Zoning Board of Appeals intended to resolve questions of alleged violations giving rise to a Stop Work Order, the Zoning Board of Appeals may hear the appeal within seventy-two (72) hours of application for said appeal, and shall render a decision within forty-eight (48) hours of the completion of said hearing.

4. Appearance Ticket

Pursuant to Section 150.20(3) of the New York Criminal Procedure Law, the Code Enforcement Officer is hereby authorized, where appropriate, to issue an appearance ticket to any person causing a violation of this local law, and shall cause such person to appear before the Town of Perth Justice Court.

5. Fines

A violation of this local law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than

three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars or imprisonment for a period not to exceed six months, or both. Violations of this local law shall be deemed misdemeanors and for purposes of conferring jurisdiction on the Town of Perth Justice Court, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

6. Other Remedies:

In addition to other remedies, provided by law, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE IX: BOARD OF APPEALS

A. CREATION, APPOINTMENT AND ORGANIZATION

1. Creation

Pursuant to Section 267 of the Town Law, the Town Board shall appoint a five (5) member Board of Appeals to interpret and judge the application of provisions of this local law and to grant or deny variance requests. In addition, the Town Board may designate up to two (2) alternate members, to participate as full Board of Appeals members as needed to substitute for regular members in the case of absence or in case of conflict of interest relative to a matter before the Board of Appeals to the extent authorized by Town of Perth Local Law No. 3-2001, as amended from time to time.

2. Term of Office

- a. Pursuant to Section 267 of the Town Law, the term of each member of the Zoning Board of Appeals shall be five (5) years, expiring at the end of the official year. The appointment and terms of office of alternate Board members, if appointment is authorized by local law, shall be governed by Town of Perth Local Law No. 3-2001, as amended from time to time.
- b. Vacancies shall be filled by appointment by the Town Board for the unexpired term.
- c. The Town Board shall designate the Chairperson of the Board of Appeals.

3. Organization

- a. General Operations
 - 1) Subject to Town Board approval, the Board of Appeals shall make, promulgate and adopt written rules, procedures, and forms necessary for the proper execution of its duties and for securing the intent of this local law.
 - 2) The Board of Appeals may employ clerical or other staff necessary for the proper function of the Board.
 - 3) The Town Board shall provide operating expenses for the Board of Appeals. Board of Appeals expenditures shall not exceed the amount of appropriations.



b. Meetings

- 1) The Board of Appeals shall hold meetings at the call of the Chairperson or at other times the Board may determine.
- 2) The Chairperson, or acting Chairperson in the absence of the Chairperson, shall have the power to administer oaths and compel the attendance of witnesses.

c. Minutes

- 1) The Board of Appeals shall keep proper minutes of its meetings and records of its examinations and other official actions.
- 2) The minutes shall show how each member voted on every question. The minutes shall also indicate if a member is absent or fails to vote.
- 3) The Board of Appeals shall file a record of all determinations with the Town Clerk for the public record.

B. POWERS AND DUTIES

The Board of Appeals shall have all the powers and duties prescribed by law and more particularly specified by this local law. None of the following provisions shall be deemed to limit any power of the Board that is conferred by law.

1. Appeal for Interpretation

Upon appeal from a decision, order, requirement or determination made by the Code Enforcement Officer, the Board of Appeals shall have the power to decide any of the following questions:

- a. The meaning of any portion of the text of this local law or of any condition or requirement specified or made under the provisions of this local law.
- b. The exact location of any district boundary shown on the Zoning Map.
- c. The appropriate category of use to be applied to any use or proposed use not specifically identified and/or defined in this law.

2. Appeal for Variance

Upon appeal from a decision of the Code Enforcement Officer, the Board of Appeals shall have the power to vary or modify the application of any of the regulations or provisions of

=====

this local law relating to the use, construction or alteration of structures, or the use of land, so that the spirit of the local law shall be observed, public safety and welfare secured, and substantial justice done. Variances shall be granted only under the following circumstances:

3. Area Variances

Upon appeal from a decision of the Code Enforcement Officer, the Board of Appeals shall to grant area variances as follows:

- a. The Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination, the Board of Appeals shall also consider:
 - 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of such variance;
 - 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance;
 - 3) Whether the requested area variance is substantial;
 - 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- b. Any area variance granted shall be the minimum variance deemed necessary and adequate and which will at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

4. Use Variances

Upon appeal from a decision of the Code Enforcement Officer, the Board of Appeals shall have the power to grant use variances as follows:

- a. The applicant shall conclusively demonstrate that strict application of use prohibitions delineated in this local law would impose unnecessary hardship such that, for each and every permitted use under the zoning law for the district where the property is located:



- 1) The applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent evidence;
 - 2) That the alleged hardship relating to the property on question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - 3) That the requested use variance, if granted, will not alter the essential the essential character of the neighborhood; and
 - 4) That the hardship has not been self-created.
- b. Any use variance granted shall be the minimum variance deemed necessary and adequate to address the unnecessary hardship proven by the applicant and which will at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

5. For All Variances

In granting any variance the Board of Appeals shall be governed by the following considerations:

- a. No variance shall be granted if the Board determines that the harm caused by such a variance is greater than the benefit to the community.
- b.. No variance shall be granted solely for reasons of additional financial gain to the owner of the land or building involved. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded, or in disrepair, or the fact that the property is then unimproved, shall not be deemed to make the plight of the property unique or to contribute thereto.
- c. The variance, as granted by the Board of Appeals, shall be the minimum variance that will accomplish the purpose applied for.
- d. The variance, as granted by the Board of Appeals, shall not substantially alter the essential character of the locality, or constitute a grant of special privilege which is inconsistent with the limitations on other properties in the district.
- e. The Board of Appeals shall attach such conditions and safeguards to any variance granted as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this local law.
- f. The Board of Appeals shall prescribe any and all additional conditions that it deems to be necessary or desirable.
- g. Where the Board of Appeals finds the zoning classification of a particular property to constitute deprivation of the reasonable use of the land or buildings and finds the

same condition applies generally to other land or buildings in the same neighborhood or zoning district, the Board shall immediately call this condition to the attention of the Town Board.

- h. Unless a complete application for a Land Use Permit and Building Permit has been submitted within ninety (90) days of the date of the granting of a variance, such variance shall become null and void.

6. Procedure

The powers and duties of the Board of Appeals shall be exercised in accordance with Section 267 of the Town Law, the procedures specified by this local law, and their own By-Laws.

- a. All appeals and applications made to the Board of Appeals shall be in writing in a form prescribed by the Board of Appeals and shall be accompanied by a fee as set forth in the fee schedule established by resolution of the Town Board on recommendation of the Board of Appeals, payable to the Town Clerk, for not less than the actual and necessary costs of advertising and holding a public hearing. The Board of Appeals may, in its discretion, recommend to the Town Board a refund to the applicant for part or all of the fee paid in the event that an appeal under Section B. 2., Appeal for Interpretation, is partially or wholly successful. The fee filed in connection with any application for and Area or Use Variance, shall not be returnable regardless of the disposition of the case by the Board.
- b. The Board of Appeals shall not decide upon any appeal for variance or interpretation of this local law without first holding a public hearing, notice of which shall include the property location for which the variance or interpretation is requested and the nature of the request for variance or interpretation and shall be given by publication in the official newspaper of the date, time and place of the hearing. In addition to the published notice, the Board of Appeals shall notify by mail at least five (5) days before the hearing all owners of property which lie within two hundred fifty (250) feet of the property for which relief is sought and to such other owners as the Board of Appeals may deem advisable.
- c. The Board of Appeals shall schedule a hearing on each appeal for variance or interpretation within forty-five (45) days from receipt of the appeal. The Board of Appeals shall render its decision on each appeal within sixty-two (62) days following the public hearing.
- d. Fifteen (15) days prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal or application, together with a notice of the hearing.



e. Expedited Review

Only in the case of an Appeal for Interpretation intended to resolve questions giving rise to a Stop Work Order, the Board of Appeals shall expedite review as follows:

- 1) The Board of Appeals may, at its discretion, hear the appeal without formal public hearing or published notice and without notifying property owners within 250 feet, but shall give notice to the extent practical.
- 2) The Board of Appeals shall endeavor to hear the appeal within seventy-two (72) days of receipt of the application for appeal by its chairperson.
- 3) The Board of Appeals shall render a decision within forty-eight (48) hours of the completion of the appeal hearing.
- 4) Under no circumstances can a variance of any kind be granted under expedited review procedures.

7. Referral to Fulton County Planning Department

In accordance with Section 239 (l), (m) and (n) of the General Municipal Law, unless modified by written agreement between the Town Board and the Fulton County Planning Department, the Board of Appeals shall refer any Appeal for Variance to the Fulton County Planning Department when the action affects property located within 500 feet of:

- Municipal boundary,
- Boundary of any existing or proposed county or state parkway, thruway, expressway, road or highway,
- Existing or proposed right-of-way of any stream or drainage channel owned by the county, or for which the county has established channel lines,
- Existing or proposed boundary of any county or state-owned land on which a public building or institution is situated.

Such referral shall be made at least thirty (30) days prior to the date of the public hearing.

If within thirty (30) days the Fulton County Planning Department recommends modification or disapproval, the Board of Appeals may act contrary to the recommendation only by a vote of a majority plus one of the entire Board and by adopting a resolution fully setting forth reasons for such contrary action.

In addition, the Board of Appeals shall send notification of any pending Appeal for Variance for any property located within 500 feet of a municipal boundary to the Clerk of that municipality not later than ten (10) days prior to the date of the public hearing.

8. Relief from Decisions of the Board of Appeals

An appellant aggrieved by any decision of the Board of Appeals may apply to the New York State Supreme Court for relief under Article 78 of the Civil Practice Law and Rules of New York State, pursuant to Section 267 of the Town Law.



ARTICLE X: PLANNING BOARD

A. CREATION, APPOINTMENT AND ORGANIZATION

1. Creation and membership

Pursuant to Section 271 of the Town Law, the Town Board shall appoint a seven (7) member Planning Board, which shall be responsible for continuing long-range planning activities and for such duties as are specified in this local law or delegated to the Planning Board by the Town Board.

The Town Board shall appoint one additional member, to be known as the Agricultural Representative, to the Planning Board. Said Agricultural Representative shall be a person who derives more than one-half of his/her personal income from agricultural pursuits, meaning the growing, producing, processing, or selling of the products of agriculture.

In addition, the Town Board shall designate up to two (2) alternate members, to participate as full Planning Board members as needed to substitute for regular members or the Agricultural Representative in the case of absence or in case of conflict of interest relative to a matter before the Planning Board. Such alternate members and their appointments shall be governed by Town of Perth Local Law No. 3-2001, as amended from time to time.

2. Term of Office

Pursuant to Section 271 of the Town Law, the term of each member of the Planning Board shall be seven (7) years, expiring at the end of the official year, except the term of the Agricultural Representative, which shall be five years, expiring at the end of the official year. Appointment and terms of the alternate members shall be governed by Town of Perth Local Law No. 3-2001

Vacancies shall be filled by appointment by the Town Board for any unexpired term.

The Town Board shall designate the Chairperson of the Planning Board, or upon failure to do so, the Planning Board may select a Chairperson from its membership.

3. Organization

a. General Operations

- 1) The Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under Article 16 of the Town Law, under the Subdivision Law or Zoning Law of the Town of Perth or any other statute, subject to approval by resolution of the Town Board when so provided by the Town Law.



- 2) The Planning Board may employ the clerical or other staff necessary for proper function of the Board.
- 3) The Town Board shall provide operating expenses for the Planning Board. Planning board expenditures shall not exceed the amount of the appropriations.

b. Meetings

- 1) The Planning Board shall hold meetings at the call of the Chairperson or at other times the Board may determine.

c. Minutes and Records

- 1) The Planning board shall keep proper minutes of its meetings and records of its examination, official actions, advisory reports, and general studies.
- 2) The minutes shall show how each member voted on every question. The minutes shall also indicate if a member is absent or fails to vote.
- 3) The Planning Board shall file a record of all determinations with the Town Clerk for the public record.

B. POWERS AND DUTIES

The Planning Board shall have all the powers and duties prescribed by law and more particularly specified by this local law. None of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

1. Comprehensive Plan

The Planning Board may prepare and recommend changes to the Comprehensive Plan on their own motion or as requested by the Town Board pursuant to Section 272-a of the Town Law. The Comprehensive Plan and all modifications shall be on file in the office of the Town Clerk.

2. Investigations

The Planning Board shall have the full power and authority to make investigations, maps and reports, and all resulting recommendations of all matters relating to the planning and development of the Town, pursuant to the New York Town Law.

3. Site Plan Review

The Planning Board shall be responsible for the proper implementation of Article IV, Site Plan Review, of this local law.

4. Subdivision Approval

The Planning Board shall be responsible for the review and approval of subdivision plats in accordance with the Town Subdivision Law and this local law.

5. Report on Specific Referrals from the Board of Appeals and the Town Board.

The Planning Board shall conduct a review of any matter referred to it by the Town Board or Zoning Board of Appeals and shall submit a written report to the referring body as required by the provisions of this local law or the Town Law.

6. Periodic Review of Land Use Regulations

At intervals of not more than five (5) years, the Planning Board shall re-examine the provisions of this local law and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or welfare.

ARTICLE XI: DEFINITIONS

Unless otherwise expressly stated, the following terms shall for the purpose of this local law have the meaning herein indicated. Words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot." The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged, or designed to be occupied or used". The word "shall" is mandatory and not optional. All other words used in this local law shall carry their customary meanings.

Accessory Building or Structure:

A building or structure clearly incidental or subordinate to, and customary in connection with, the principal use structure on the same lot. Examples: a garage or minor storage building.

Acre

A unit of land area measurement equal to 43,560 square feet (4047 square meters)

Agriculture:

The raising of crops, animals or animal products, horticultural or nursery products for gain, including the sale of farm produce and agricultural products at the premises.

Alteration:

Any change, rearrangement or addition to a building, or any modification in construction and/or in building equipment, excluding normal maintenance and repairs.

Billboard:

Any sign which directs attention to a business, commodity, service, entertainment, or attraction, sold, offered, or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally upon such lot.

Biosolids: See sewage sludge, this Article.

Boarding or Rooming House:

A private dwelling in which at least three (3) but not more than six (6) rooms are offered for rent, whether or not table board is furnished to lodgers, and in which no transients are accommodated, and no public restaurant is maintained.

=====

Building:

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

Building Line:

A line drawn at the front main wall of a building, excluding steps, porches, patios, eaves, cornices or other projections, and extending from lot line to lot line.

Coin Operated Laundry:

Premises equipped with individual clothes washing and drying and/or dry cleaning machines which are operated by the customers themselves; a laundromat.

Conservation:

The protection or management of land in a natural state, including management practices such as clearing and re-planting, stream channel maintenance, and erosion control, among others.

Coverage:

The area covered by all buildings on a lot, expressed as a percentage of the total lot area.

Dwelling:

A building containing one or more dwelling units capable of being used for long-term, year-round human habitation. The term dwelling shall not include boarding house, hotel, nursing home, hospital, camp, etc., designed, planned or used for relatively transient occupancy.

Dwelling, Multiple Family:

A building or portion thereof containing three (3) or more dwelling units, sharing common sewer and water services.

Dwelling, Single Family:

A detached building containing one (1) dwelling unit only, in which no more than one (1) room is offered for rent.

Dwelling, Two-Family:

A detached building containing two (2) dwelling units only.

=====

Dwelling Unit:

A building or an entirely self-contained portion thereof, containing complete housekeeping facilities for only one (1) family, including any domestic servants employed on the premises, having no enclosed space (other than vestibules, entrance, or other hall ways or porches) or cooking or sanitary facilities in common with any other dwelling unit and in which no more than one (1) room is offered for rent to other than family members. A boarding or rooming house, convalescent home, fraternity or sorority house, dormitory, hotel, inn, lodging, nursing, or other similar homes, or other similar structure, shall not be deemed to constitute a dwelling unit.

Family:

One (1) or more persons occupying a dwelling unit as a single housekeeping unit.

Farm:

A parcel of land used principally in the raising or production of agricultural products and the necessary or usual dwellings, farm structures, storage and equipment related thereto. Agricultural products shall include, but are not limited to, field crops, vegetable crops, fruit, woodland products, livestock and livestock products, and fowl. It excludes kennels and stables used by the public.

Fence:

An unroofed enclosing structure erected for the purpose of preventing passage or view.

Floor Area, Gross:

The sum of the gross horizontal area of the several floors of the building or buildings on a lot, measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings or uses.

Fowl:

Animals including but not limited to domestic birds such as chickens, ducks, geese, turkeys, pheasants, or pigeons raised in confinement.

Frontage:

The horizontal distance between the side lot lines measured along the street line.

Garage:

Premises used for storage, display, sale, rental, service or repair of motor vehicles.

Garage, Private:

An accessory building used by the occupants of a principal structure for storage of one or more vehicles or boats and within which no business, occupation, service or industry is conducted for profit.

=====

Gross Floor Area: See Floor Area, Gross - this Article.

Illumination, Direct (signs):

Sign illumination which incorporates any artificial lighting as an inherent part or feature or which depends for its illumination on transparent or translucent material or electricity or radio-activated or gaseous material or substance. Internally lighted signs and fluorescent lettered signs are examples of directly illuminated signs.

Illumination, Indirect (signs):

Illumination with artificial light which is separated from and is not an intrinsic part of the sign itself, but instead shines onto the sign to make it visible after dark.

Junk

Two or more junk motor vehicles, one or more junk mobile homes, two or more junk appliances, two or more items of junk furniture, or any combination of these that total two or more items

Junk Appliances

Abandoned or inoperable appliances, including, but not limited to, washers, dryers, dishwashers, stoves, microwave units, refrigerators, freezers, or televisions.

Junk Furniture

Abandoned or irreparably damaged pieces of indoor furniture, including, but not limited to, sofas, lounge chairs, mattresses, beds or bed frames, desks, tables, chairs, or chests of drawers.

Junk Mobile Home

A structure, originally transportable in one or more sections, built on a chassis and designed as a dwelling unit (including, but not limited to, mobile homes, travel trailers, and campers), but which is currently not inhabited and is no longer inhabitable under the standards of the New York State Uniform Fire and Prevention Code,

Junk Vehicle

An unregistered motor vehicle, no longer intended or in condition for legal use on the public highways of New York State, or used parts or waste materials from motor vehicles, which, taken together, equal in bulk two or more such vehicles. A vehicle is considered a junk vehicle when the cost of repair to achieve legal operating condition exceeds its market value prior to such repair.

Landscape Planting:

The functional and aesthetic planting and maintenance of trees, shrubbery and flowers in relationship to man-made structures and the existing natural landscape elements.

Laundromat: see Coin Operated Laundry.



Lot:

Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, together with the required open spaces appurtenant to such building or group of buildings.

Lot Depth:

The minimum distance from the street line of a lot to the rear lot line of such lot. (See Yard).

Lot Line:

Any boundary of a lot other than a street line.

Lot Line, Rear:

The lot line generally opposite to the street line; if the rear lot line is less than ten (10) feet in length, or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the street line not less than ten (10) feet long lying farthest from the street line. (See Yard).

Lot Width:

The dimension measured along the required front yard setback line at substantially right angles to the depth of the lot. (See Yard).

MANUFACTURED HOME COMMUNITY DEFINITIONS

ACCEPTABLE MANUFACTURED HOME INSTALLATION – Installation of an individual manufactured home in conformity with the manufacturer's installation instructions. When the manufacturer's installation instructions are not available the home shall be installed in conformance with reference standard RS-68. Plans for installation stamped by a licensed New York State engineer or architect is also acceptable.

ACCESSORY BUILDING - A subordinate building located on the same lot as an individual manufactured home.

COMMUNITY SITE PLAN - The plan required of an applicant for a Special Use Permit to establish, maintain, and operate a Manufactured Home Community pursuant to the standards enumerated in this local law. Such plan shall show in sufficient detail, as required by the Planning Board, all of the required information pertaining to the proposed layout of a premises for the community in compliance with this local law and shall be filed in the office of the Town Clerk upon approval by the Planning Board.

COMMUNITY STREET - A private way with a dust control surface within the boundaries of a manufactured home community which affords the principal means of access to individual manufactured home sites or buildings.

=====

DRIVEWAY -a private way with a dust control surface of at least ten (10) feet in width, used by vehicles and pedestrians on and/or into individual home sites. This area may constitute off street parking.

DUST CONTROL SURFACE – A surface covering (such as pavement, crushed stone or gravel) that minimizes the generation of dust (when dry) or mud (when wet) when traversed by motor vehicles.

HARD-SURFACED AREA – An area the surface of which is covered with pavement or paving stones or similar material.

MANUFACTURED HOME -A manufactured home which is constructed in conformity with 24CFR Part 3280 the Manufactured Home Construction and Safety Standards complied by the US Department of Housing and Urban Development (HUD 1976).

MANUFACTURED HOME COMMUNITY - A parcel of land which has been designed and improved for placement of two or more manufactured homes for non-transient use.

MANUFACTURED HOME SITE - An area of land in an approved manufactured home community and designated on the community site plan for the installation of a single-family manufactured home and any accessory structures, including any open space required in connection with the placement of such home. The area of such space is to be measured from the pavement line (or dust free surface line) of the community street on which it faces.

MANUFACTURED HOME STAND - That part of an individual site which has been reserved and/or prepared for the installation of a single-family home, exclusive of accessory buildings.

MODULAR HOME - A single family dwelling which is constructed according to the standards set forth in local or state building codes, and which may consist of two or more sections transported to the site in a manner similar to a manufactured home, or which may consist of a series of panels or room sections transported on a truck and erected or joined together on the site. Modular homes may or may not have an integrated chassis.

PATIO - A dust control area designed and intended to serve as outdoor living space supplemental to the interior home living area on a seasonal, warm-weather basis.

PERMITTEE - Any person licensed to operate and maintain a Manufactured Home Community under the provisions of this ordinance.

PRE-HUD MANUFACTURED HOME (MOBILE HOME) - A single family dwelling that is wholly, or in part, fabricated in an off-site manufacturing facility for installation or assembly at the building site, designed to be a permanent residence, and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of June 15, 1976.

RESIDENTIAL DESIGNED MANUFACTURED HOME - A single family dwelling unit built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code which meets or exceeds the following criteria:

- A. The manufactured home has a minimum width of twenty (20) feet.

- B. The floor area meets the minimum square footage requirement of the New York State Building Code.
- C. The roof covering is a material commonly used in residential construction.
- D. The exterior siding is of a type of material commonly used in residential construction.
- E. All towing devices, wheels, axles, and hitches must be removed.
- F. That it be installed on a permanent foundation as described by sub chapter D of the New York State Code.
- G. Skirting material must either match the exterior finish material of the manufactured home or must be, or simulate the appearance of, block, brick, stone, etc.

SERVICE BUILDING - A structure housing sanitary, operational, office, recreational, maintenance or other facilities as allowed.

SKIRTING - Material matching the exterior material of the home and/or made of weather resistant material such as aluminum, vinyl or commercially produced material designed specifically for such application.

STANDARD DESIGNED MANUFACTURED HOME - A single family dwelling built according to the Federal Manufactured Housing Construction and Safety Standards (24 CFR 3280) HUD Code which does not meet the criteria of a Residential Designed Manufactured Home.

TRAILER - A structure that is (1) intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and (2) is designed for temporary use as sleeping quarters, but does not satisfy one or more of the definition criteria of manufactured or mobile home as defined in this local law.

Manufacturing:

The fabrication, alteration, processing, finishing, handling or assembly of raw materials and packaging, warehousing, and storage of articles in quantity.

Motor Vehicle

A Vehicle propelled or drawn by power other than muscular power and originally intended for use on public highways.

Non-Conforming Building:

=====

A building which contains a use permitted in the district in which it is located, lawfully existing on the effective date of this local law, but which does not conform to the district regulations for: lot area, width, or depth; front side or rear yard dimensions; maximum height; lot coverage; or minimum habitable floor area per dwelling unit.

Non-Conforming Use:

A use, whether of a building or tract of land or both, lawfully existing on the effective date of this local law which does not conform to the use regulations or supplementary regulations of the District in which it is located.

Nuisance:

Any thing or act that annoys or disturbs unreasonably, hurts a person's use of his or her property, or violates the public health, safety, or welfare.

Occupant:

The person in occupancy, in possession or control of premises, or using premises.

Owner:

Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of such building or premises.

Parking Lot:

Land which is open or semi-enclosed by structures and which is used to provide off-street parking spaces.

Parking Space, Off-Street:

A space which is out of the public right-of-way and is available and adequate for parking one motor vehicle.

Passive Recreation:

Outdoor activities for individual relaxation and enjoyment not requiring special playing surfaces or in-place equipment. Passive recreation includes such activities as hiking, fishing, cross-country skiing, picnicking, etc.

Principal Building:

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

=====

Public Water, Public Sewer:

Sewage disposal and water supply systems owned and maintained by a municipal corporation, public sewer district, or public water district.

Rest Home:

A facility in which no more than fifteen (15) persons not related to each other are housed and fed by persons paid for providing such services, and where nursing care and medical services are not normally provided within the facility.

Retail Sales and Service:

Sale of goods, wares, commodities or services to ultimate customers for direct consumption and not for resale.

Retirement Home: See Rest Home, this Article.

Right-of-Way:

The property subject to an easement permanently established for the passage of persons or vehicles.

Road: See Street, this Article

Roadside Agricultural Stand:

A structure, either temporary or permanent and either attached to the ground or movable, intended for the sale of agricultural products produced on the premises to the general public.

Rooming House: See Boarding House, this Article.

Screening:

A properly maintained combination of fences, berms, rows of trees, hedges and other means to block the view and buffer noise generated by activities on a lot from other properties in the vicinity and/or from the street.

Septage

Liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device, storage tank, holding tank or similar device which receives human wastes, domestic sewage, commercial sewage, and/or industrial wastes for treatment or storage.

Sewage Sludge or Biosolids

Solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes scum and solids removed in primary, secondary, or advanced wastewater treatment processes, and material derived from sewage sludge. For purposes of this law,

=====
sewage sludge and biosolids does not include animal manure produced or utilized in agricultural production activities.

Sign:

Any structure or part of a structure, or any device attached to a structure or painted or represented on a structure which shall display or include any lettering, wording, graphics, marking, or representing an announcement, direction, or advertisement. Excluded from this definition are signs which are solely devoted to prohibiting trespassing, hunting or fishing.

Sign Area:

The area of the surfaces within which all the elements of the sign displayed can be framed or outlined, but excluding structural members used only for support.

Sign, Directly Illuminated: See Illumination, Direct, this Article.

Sign, Indirectly Illuminated: See Illumination, Indirect, this Article.

Sign, Portable:

Any sign not firmly and more-or-less permanently attached to a building or structure, or anchored to or into the pavement or ground. Sandwich board signs, wheeled or trailer-mounted signs, and moveable bulletin-type signs are examples of portable signs.

Street, Road:

A street is one of the following: an existing Town, County or State highway or street; a street shown on an approved subdivision final plat; a street shown on the Official Map of the Town; any other right-of-way legally designated for public use for passage of motor vehicle traffic.

Street Line:

The boundary of the right-of-way of the public street or of the private lane, right-of-way, or easement.

Structure:

Any combination of materials forming any construction, except where entirely underground so as to permit the use of the ground above as if no building was present; the term "structure" shall include the term "building" as well as the following:

- (a) Signs;
- (b) Fences
- (c) Wall, other than retaining walls projecting above the ground not more than three (3) feet at the higher ground level and not more than six-and one-half (6½) feet at the lower ground level;
- (d) Radio, television, and personal communications or electronic data receiving and transmitting towers and antennae, except for such antenna installed on the roof of a

- "building" and extending not more than twenty (20) feet above the highest level of the roof of such "building" and
- (e) Porches, outdoor bins, and other similar "structures".
 - (f) Pools, tanks, and other containment vessels for liquid storage or use.

TELECOMMUNICATIONS TOWER DEFINITIONS

CAMOUFLAGE: The construction of facilities to house or support telecommunication towers or antennas so that the towers and/or antennas blend readily with the landscape, neighborhood, and adjacent architectural features. Examples of camouflaging that could be used are: silo and barn, windmill, and simulated tree.

CO-LOCATION: The mounting of antenna(s) or other telecommunications equipment used by two or more providers, persons, firms or corporations on the same antenna support structure, monopole, or antenna tower.

COMMUNICATION TOWER AND FACILITIES: A site development including a structure or structures on which antennae or other telecommunications devices are located for television, radio, data, imagery, telephone or other forms of telecommunications and all related structures and improvements necessary for the operation of such facility.

TELECOMMUNICATIONS ANTENNA: A device used in communications which receives and/or transmits electromagnetic waves, microwave or other electronic communication signals from or to satellites, other such towers, or other instruments for television, radio, data, imagery, telephone or other forms of communication. The term "Telecommunications Antenna" shall not include private residential reception equipment.

Through Lot:

An interior lot having frontage on two approximately parallel, or converging streets - other than a corner lot.

Usable Open Space:

All unenclosed portions of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than twenty-five (25) percent is roofed for shelter purposes only, the minimum dimension of which is forty (40) feet, and which is available and accessible to all occupants of the building or buildings on the said lot for purposes of active or passive outdoor recreation, and which is not wetlands or a NYSDEC protected stream or within 150 feet of same or within a FEMA flood hazard area.

Use, Accessory:

A use customarily incidental and supplemental and clearly subordinate and secondary to the principal use located on the same lot.

Use, Permitted:

A use allowed as a matter of right in a district.

Use, Principal:

The main, primary use of a lot.

Variance:

A modification of the use and/or area standards of this local law in an individual case where, due to specific facts and conditions relating to a particular property, literal application and strict enforcement would result in unnecessary hardship or practical difficulty that would deprive the owner of all reasonable use of the land or structures.

Variance, Area:

A variance of requirements of this local law for area, density, setback, or parking due to practical difficulties unique to the lot or parcel in question, which authorizes the commencement of a permitted use which could not feasibly be established without relief from the applicable dimensional requirements.

Variance, Use:

A variance of the requirements of this local law to allow the establishment on a specific lot of a use not permitted in the district without such variance.

Tourist Home: See Bed-and-Breakfast.

Town: The Town of Perth, Fulton County, New York.

Yard, Front:

An unoccupied ground area, open to the sky, between the street line and a line drawn parallel thereto along the front wall of the building, extending from lot line to lot line. (See Diagram).

Yard Line:

A line drawn parallel to a street or lot line at a distance therefrom equal to the respective yard dimension required by this local law.

Yard, Rear:

An unoccupied ground area, open to the sky, between the rear lot line and a line drawn parallel thereto along the rear of the building, extending from lot line to lot line.

=====

Yard, Side:

An unoccupied ground area, open to the sky, between any lot line other than a street or rear lot line, and a line drawn parallel thereto along the side of the buildings, between and not including any portion of the front and rear yards.

Yard, Required:

Any yard measured between a line drawn parallel to a street or lot line at a distance therefrom equal to the respective yard dimension required by this local law.



ARTICLE XII: AMENDMENTS

A. GENERAL

In accordance with Sections 264 and 265 of the Town Law, this local law or any part thereof, may be changed, amended, supplemented or repealed, from time to time, by the Town Board upon its own motion, upon public petition, or upon recommendation by the Planning Board or Board of Appeals.

B. PROCEDURE

The procedure for amending this local law shall be as follows:

1. All petitions for any amendments to the text of this local law or to district boundaries designated on the official zoning map shall be filed with the Town Clerk in writing and in a form required by the Town Board.
2. Proposed amendments are actions subject to SEQR. Prior to formal consideration and public hearing, the Town Board shall make a determination as to the type of action, lead agency status, and environmental significance or nonsignificance in accordance with Article 8 of the NYS Environmental Conservation Law.
3. Unless the amendment proposed is initiated by the Town Planning Board, the Town Board shall refer all such proposals and all pertinent information to the Planning Board no less than forty five (45) days prior to the required public hearing for report and recommendations, to be considered by the Town Board prior to its public hearing. A full statement of the reasons behind the recommendations shall accompany the Planning Board's Report, specifically including:
 - a. For a proposed amendment to, or change in, the text of this local law:
 - 1) Whether the change is consistent with the goals and principals embodied in the Town Comprehensive Plan, as may be in force and effect at the time, and/or in local law as to the particular districts concerned;
 - 2) Which areas, land uses, buildings, and establishments in the Town will be directly affected by such change and in what way they will be affected;
 - 3) The indirect implications of such change and its effect on other regulations; and

- =====
- 4) Whether such proposed amendment is consistent with the aims of the development policies of the Town, as enunciated in this local law, and with any Comprehensive Plan as prepared by the Planning Board.
- b. For a proposed amendment involving a change in the Zoning Map:
 - 1) Whether the uses permitted by the proposed change would be appropriate in the area concerned;
 - 2) Whether adequate public school facilities and other public facilities and services, including roads, water service, sewer service, and drainage facilities exist or can be reasonably expected to be created, to serve the needs of any additional uses likely to be constructed as a result of such change;
 - 3) Whether the proposed change is in accord with any existing or proposed plans in the vicinity; and
 - 4). The effect of the proposed amendment upon the growth of the Town as envisaged by the development policies of the Town.
 - c. If the Planning Board fails to make a recommendation within forty-five (45) days of receiving the report, the Town Board may act without the Planning Board's report. The forty-five (45) day period may be extended by agreement of the Planning Board and the Town Board.
- 4. By resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment, and cause notice to be given in accordance with provisions of Section 264 of the Town Law. All notices of public hearing shall specify the nature of any proposed amendment, the land or district affected, and the date when and the place where the public hearing will be held. At least ten (10) days notice of the time and place of such hearing shall be published in the official newspaper.
 - 5. All proposals within the criteria of Section 239 (l), (m) and (n) of the General Municipal Law shall be referred to the Fulton County Planning Department no less than forty five (45) days prior to the scheduled public hearing for report and recommendation to be considered by the Town prior to the public hearing, unless such requirement for review is modified by written agreement between the Town Board and the Fulton County Planning Department.

If the Fulton County Planning Department recommends modification or disapproval, the Town Board may act contrary to the recommendation only by a vote of a majority plus one of the entire Board and by adopting a resolution fully setting forth reasons for such contrary action.

C. PROTEST BY OWNERS

Pursuant to Section 265 of the Town Law, if a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged, by the owners of twenty percent (20%) or more of the area of land included in the proposed amendment, or the owners of twenty percent (20%) or more of the area of the land immediately adjacent extending one hundred (100) feet therefrom, or by owners of twenty percent (20%) or more of the area of land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, the amendment shall not be passed except by the favorable vote of at least three-fourths ($\frac{3}{4}$) of the members of the Town Board.

D. EFFECTIVE DATE

In accordance with the procedure set forth in Section 27 of the Municipal Home Rule Law, this local law or any amendments thereto shall take effect immediately upon filing with the New York State Secretary of State, unless a different time shall be prescribed therein.

ARTICLE XIII: INTERPRETATION AND APPLICATION

A. INTERPRETATION AND APPLICATION

The provisions of this local law shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Except where specifically provided to the contrary, it is not intended by this local law to repeal, abrogate, annul, or in any way to impair or interfere with any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings, structures, shelter, or premises, nor is it intended by this local law to interfere with, or abrogate, or annul any easements, covenants, or other agreements between parties, provided, however, that where this local law imposes a greater restriction upon the use of a building or premises or requires larger open spaces than are imposed or required by any other statute, local law, rule, regulation, or permit, or by any easement, or agreement, the provisions of this local law shall control.

B. SEPARABILITY

If the courts decide that any term, section or provision of this local law is unconstitutional or invalid, the decision shall not affect the validity of the local law as a whole or any part other than the part decided to be unconstitutional or invalid.

C. VIOLATIONS

Violations of this local law or of any rules, regulations or procedures established pursuant to this local law shall be subject to the provisions of applicable law, and to the provisions of Article X, Section D, of this Local Law.

D. EFFECTIVE DATE

In accordance with the procedure set forth in Section 27 of the Municipal Home Rule Law, this local law or any amendments thereto shall take effect immediately upon filing with the New York State Secretary of State, unless a different time shall be prescribed therein.