

# **TOWN OF HARRISBURG ZONING LAW**

Local Law #1 of 1988 adopted April 12, 1988

As Amended by

LOCAL LAW #1 OF 1991

LOCAL LAW #1 OF 1992

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LOCAL LAW #1 OF 2011

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

**Section 105 Enacting Clause**

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Harrisburg hereby adopts and enacts as follows.

**Section 110 Title**

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

**Section 115 Purposes of the Zoning Law**

The purposes of this zoning law are to provide for orderly growth in accordance with the community's development goals and objectives, to lessen congestion in the roads, to secure safety from fire, flood and other dangers, to provide adequate light and air, to prevent the overcrowding of land, to protect historical and recreational attributes, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and to promote the health, safety, and general welfare of the public.

This zoning law has been made with reasonable consideration to, among other things, the character of each zone and its suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land.

**Section 120 Prior Existing Laws**

The Mobile Home Ordinance of the Town of Harrisburg is hereby repealed. However, such repeal shall not affect any act done, offense committed, or right accruing, accrued, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time such repeal takes effect, but the same may be enjoyed, asserted, enforced, and prosecuted, or inflicted as fully and to the same extent as if such repeal had not been effected.

**ARTICLE II**  
**DEFINITIONS**

Except where specifically defined herein all words used in this law shall carry their customary meanings. Words in the present tense include the future, the singular number includes the plural and the plural the singular; and the word "lot" includes the word "plot." Doubt as to the precise meaning of any word used in this law shall be clarified by the Board of Appeals under their powers of interpretation.

**Accessory Structure:** A subordinate structure located on the same lot with the main structure, occupied by or devoted to an accessory use. Where an accessory structure is attached to the main structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure. This shall include but not be limited to garages, storage sheds, satellite dishes, or similar structures.

**Accessory Use:** A use incidental and subordinate to the principal use and located on the same lot with such

principal use.

**Adjacent:** With reference to the location of a parking facility, land located across an alley, easement, road or highway from the building incidental to which such space for vehicle storage or off-road parking facility is required.

**Agricultural Business:** A business engaged in performing agricultural, animal husbandry, or horticulture services on a fee or contract basis including custom meat cutting up to 1,500 animals a year. The selling of farm products grown or produced on the premises shall be considered as part of an agricultural business. This shall not include the commercial manufacturing, mixing, or storage of regulated pesticides or herbicides.

**Agricultural Structure:** Barns, silos, storage buildings, equipment sheds, and other accessory structures customarily used for agricultural purposes.

**Agriculture:** The raising of crops, animals, or animal products, the selling of products grown on premises, and any other commonly accepted agricultural operations, including incidental mechanical processing of products, except animals or crops raised for personal consumption or recreational purposes.

**Alterations:** As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

**Animal Hospital:** A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

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

**Area (of a Sign):** The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, as included within the definition of a sign, together with the frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed. On signs with more than one face, only that face or faces visible from any one direction at one time will be counted.

**Building:** Shelter having a roof supported by column or walls and intended for the shelter or enclosure of persons, animals, or property.

**Campground/Travel Trailer Park:** Land on which are located two (2) or more cabins, travel trailers, tents, shelters, or other accommodation suitable for seasonal or temporary living purposes, excluding mobile homes.

**Community Center:** Includes public or private meeting hall, or place of assembly, not operated primarily for profit.

**Coverage:** That percentage of the plot or lot area covered by the building area.

**Dwelling:** Building or part thereof used as living quarters for one family. The terms dwelling, one-family

dwelling, two-family dwelling, or multiple-family dwelling shall not include a motel, hotel, boarding house or tourist home.

**Dwelling, One Family:** Detached building designed for or occupied exclusively by one (1) family.

**Dwelling, Two Family:** Building designed for, or occupied by, two (2) families living independently of each other.

**Dwelling, Multiple Family:** A building designed for, or occupied by, three (3) or more families living independently of each other.

**Essential Facilities:** Telephone exchange and dial centers or repeater station, electrical or gas substations, water treatment or storage facilities, pumping stations, sewage facilities, and similar facilities operated or maintained by municipal agencies or public utilities.

**Excavation:** All mining and excavation activities for which one thousand (1,000) tons or seven hundred fifty (750) cubic yards, whichever is less, of minerals, inorganic solid material, peat, and/or topsoil, are removed from the earth, within twelve successive calendar months for sale, or for commercial, industrial, or municipal use. All other mining or excavation activities shall be exempt from this law.

**Family:** One (1) or more persons living, sleeping, cooking or eating on the same premises as a single housekeeping unit.

**Finance, Insurance, and Real Estate:** Establishments such as, but not limited to, banks and trust companies, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agents, brokers, lessors, lessees, buyers, sellers, agents, and developers of real estate.

**Floating Zone:** A zoning district whose requirements are described in the text of this law but which is unmapped. It may be mapped upon petition for a rezoning.

**Frost Wall:** A masonry foundation wall extending below the ground surface, supported by footings located below the frost-line, to protect structures from frost heaves.

**Garages, Private Parking:** An accessory building not operated for gain and used in conjunction with a principal building which provides for the storage of motor vehicles and/or other household items.

**Garages, Public Parking:** Any garage other than a private garage, operated for gain, available on a rental basis for the storage of four (4) or more motor vehicles.

**General Plan:** A comprehensive or master plan for the development of the Town.

**Gross Floor Area (GFA):** The gross size of the total floor area of the outside dimensions of a building. These dimensions shall include the length and width of the facility.

**Gross Leasable Area (GLA):** The gross size of the floor area of a commercial/retail facility which is leasable.

**Home Occupation:** A non-residential activity conducted within a dwelling unit or mobile home in accordance with the provisions of Section 560 of this law. Where the activity does not operate in accordance with Section

560 of this law, the use shall be required to conform with the standards specific to that use.

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

**Indoor Recreation:** A building designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

**Industrial Use:** Those uses which are of a manufacturing character.

**Junk Storage Area:** The areas of any parcel of land or water used, or intended to be used, for the placement or storage of junkyard items.

**Junk Vehicles, Junkyard, Junkyard Items:** Are as defined by the County of Lewis Junkyard Law, Local Law No. 5 of 1987, as amended, and are incorporated in this local law by this reference.

**Kennel:** An establishment in which more than five (5) dogs more than six (6) months old are housed, groomed, bred, boarded, trained, or sold.

**Laundromat:** An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public for family laundering or dry-cleaning purposes.

**Loading Space:** Off-road space used for the temporary location of one licensed motor vehicle, which is at least twelve (12) feet wide and forty (40) feet long, not including access driveway, and having direct access to a road.

**Lot:** A parcel of land, or contiguous parcels of land in one ownership, capable of being used or occupied by a building or structure and the accessory buildings, structures or uses customarily incidental to it including setbacks as required by this law, which are recorded by deed or survey in the office of the Lewis County Clerk.

**Lot Frontage:** The distance between the boundaries of a lot measured at their points of intersection with the road right of way line, or the shore line of the Deer River.

**Lot Line:** Property lines bounding a lot.

**Lot of Record:** Any lot which individually or as a part of a subdivision has been recorded in the County Clerk's office and for which proof can be given that the lot was intended for development prior to adoption of this law.

**Mean High Water Mark:** The point at which terrestrial vegetation meets aquatic vegetation; terrestrial vegetation being defined as trees, grass, shrubs, and associated plant life, and aquatic vegetation being defined as cattails, floating or emergent vegetation, and associated plant life.

**Mobile Home:** Manufactured housing with or without a foundation, designed with a chassis, and constructed to be towed or otherwise transported whole or in part to a site, and which is designed to permit occupancy for dwelling or sleeping purposes. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed

and regardless of the nature of the foundation provided. The term *mobile home* shall not include *modular homes* or *travel trailers*.

**Mobile Home, Double-Wide:** Manufactured housing built on a chassis bearing a seal issued by the Federal Department of Housing and Urban Development. A double-wide mobile home is manufactured in two or more sections off-site and transported individually to the placement site and when assembled has a minimum enclosed horizontal exterior dimension of twenty (20) feet.

**Mobile Home Park:** A parcel on which two (2) or more mobile homes are parked, and occupied for living purposes.

**Modular Home:** Manufactured housing bearing the insignia of approval issued by the State of New York. A modular home is designed to be permanently anchored to a foundation to become a fixed part of the real estate.

**Motel/Hotel:** A building or group of buildings, whether detached or in connected units, containing transient and/or permanent lodging facilities for the general public and which may contain accessory facilities such as restaurants, meeting rooms, retail business activities and related activities primarily accommodate the occupants, but open to the general public, including buildings designated as *auto cabins*, *auto courts*, *motor lodges*, *tourist courts* and similar terms.

**Motor Vehicle Repair Shop:** A building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles.

**Nonconformity:** A lot, building, structure, or use of land legally and substantially existing at the time of enactment of this law which does not conform to the regulations of the district in which it is situated.

**Nursery/Garden Shop:** A commercial facility which primarily includes the sale of trees, shrubs, plants, and utensils incidental to gardening. This shall not be interpreted to include the large-product retail sales of farm equipment and implements. (See *Retail, Large-product*.)

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

**Off-Street Parking Facility:** An area for temporary parking of motor vehicles off public road right-of-ways.

**Person:** An individual person, copartnership, voluntary association or corporation.

**Personal Service:** Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, photographic studio, and businesses providing similar services.

**Pool, Outdoor Water:** Swimming pools, tanks, depressions, or excavations in any material, dikes or berms constructed, erected, excavated, or maintained which will cause the retaining of water to a greater depth than eighteen (18) inches and having a larger plan surface area of water greater than one hundred (100) square feet, except outdoor ice skating rinks or surfaces of water used for ice skating, water ponds for agricultural purposes, and water storage tanks, when such tanks are completely enclosed by the principal material of their construction.

**Portable Sign:** Any sign which by its design is able to be and is commonly moved from place to place.



**Professional Office:** Offices and related spaces for use as professional services as provided by medical practitioners, attorneys, architects, engineers, and similar professions.

**Public and Semi-Public Facility:** Any one or more of the following uses, including grounds and accessory buildings necessary for their use:

- A. Religious Institutions
- B. Public parks, playgrounds and recreational areas when authorized or operated by a governmental authority.
- C. Schools
- D. Public Libraries
- E. Not-for-profit fire, ambulance and public safety buildings.

**Quarry:** See *Excavation*.

**Rear Lot Line:** That lot line which is opposite and most distant from the front lot line.

**Recreation, Outdoor:** Includes golf driving range, golf pitch and putt course, and par three golf course; recreation court; open space; playfield; swimming pool; bike trails; hiking trails; and similar facilities for outdoor recreation.

**Religious Institution:** Includes church, temple, parish house, convent, seminary and retreat house.

**Restaurant:** Any establishment, however designated, at which food is sold for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar, fast food establishment, or refreshment stand at a public or semi-public community pool, playground or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**Retail Gasoline Outlet:** Any establishment that sells gasoline to the public. This includes *service stations, convenience stores, car washes* and any other facility that sells gasoline.

**Retail, Large-product:** A commercial facility including sales and service for new and used automobiles, trucks, mobile homes, recreational vehicles, and farm implements, furniture and large appliance sales.

**Retail, Small-product:** A commercial activity characterized by the direct on-premise sale of goods and services to the ultimate consumer, including on-premise manufacturing, processing, and servicing and preparation customarily associated therewith and generally involving stock in trade such as are normally associated with department stores, food markets and similar establishments. *Small retail* shall not include *large-product retail*.

**River:** That portion of a flowing body of water to the mean high water mark thereof, not including any tributary thereto unless expressly included in these regulations. For the purposes of this law *river* shall mean the Deer River exclusively.

**Road:** A public or private way for vehicular traffic which affords the principal means of access to abutting properties or sites.

**Road Line:** Right-of-way line of a road as dedicated by a deed or record. Where the width of the right of way

is not established, the road line shall be considered to be twenty-five (25) feet from the center line of the road pavement.

**Roadside Stand:** A stall or booth of a temporary nature for the sale of farm or garden products grown on the premises.

**School:** Includes parochial, private, public and nursery school, college, university, and accessory uses; and shall exclude commercially operated school of beauty culture, business, dancing, driving, music and similar establishments.

**Setback:** Distance measured between a building, structure or use of land and the road line, road centerline, side lot line, rear lot line, or mean high water mark of a river.

**Shopping Center:** Facilities providing *retail and services, large product retail and services* or offices and *business services* in excess of 25,000 square feet gross leasable area.

**Shoreline:** That line at which land adjoins the water of rivers, and streams at the mean high water mark.

**Side Lot Line:** A lot line that is not a road line or a rear lot line.

**Sign:** Any structure or natural object or part thereof or device or inscription located upon, attached thereto or painted or represented on any land or on the outside of any building or structure or part thereof or affixed to the glass of a window so as to be seen from the outside of a building which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, words, numerals, emblems, symbols, models, banner, flags, pennants, insignia, trademarks, devices or representation used as, or which is in the nature of an announcement, direction, advertisement, attention-arrester, warning or designation of any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise, industry, or public performance. *Sign* shall include any letter, word, model, banner, pennant, insignia, trade flag, or other device or representation used as, or which is in the nature of, an advertisement, announcement or direction, but excluding any public traffic or directional signs.

**Sign, On-premises:** A sign advertising an establishment, business or service located on the same premises as the sign.

**Slaughterhouse:** A place where the primary activity is the killing, butchering, or packaging of animals for compensation on a year-round basis. This shall not be interpreted to include: seasonal or incidental butchering of deer, bear, or livestock; or facilities that kill, butcher, or package less than fifteen hundred (1,500) animals a year.

**Special Permit:** A permit issued by the Planning Board for a special use after review and approval according to the procedures in Article VI of this law.

**Storage Unit:** Structures including, but not limited to, commercial transport trailers (with or without wheels attached), truck boxes and container boxes. Storage units shall not include vans, station wagons, mobile home, campers (motorized or not), or any unlicensed motor vehicle. A storage unit shall be an accessory structure.

**Structure:** Any object constructed, installed, or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, satellite dishes, tanks, and any fixtures, additions, and

alterations thereto. The word *fences* shall not be included in the definition of *structure*.

**Tavern, Bar, Nightclub:** An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

**Telecommunication Tower:** A structure on which transmitting and/or receiving antenna(e) are located.

**Town:** The term *Town* (with capital letter not required by standard English usage) means the municipal government of the Town of Harrisburg or its employee or official designated by statute law or this law to function as its agent. The term *town* without capital letter means the Town of Harrisburg as an area of land governed by the Town.

**Travel Trailer:** Shall include motor homes, truck campers, camping trailers, travel trailers and pop-up trailers less than forty-eight (48) feet in length used for recreation and travel.

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

**Use, Permitted:** A use in a particular zone listed in Section 405 as (P) and not requiring Planning Board review, but requiring a zoning permit issued by the Zoning Officer.

**Use, Special:** A use in a particular zone listed in Section 405 as SP and requiring a special use review prior to the issuance of a special permit.

**Use, Temporary:** An activity conducted for a specified limited period of time. Examples of such uses are buildings incidental to new construction which are removed after the completion of the construction work, and seasonal produce stands.

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

**Warehousing:** A building used primarily for the storage of goods and materials and may include terminal facilities for handling freight.

**Wetlands:** Any lands or water that are defined as wetlands according to the New York State Freshwater Wetlands Act, Section 24-0107(1) and are mapped pursuant to 6 NYCRR 664, and are filed with the County or Town Clerk.

**Wholesale:** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This shall include lumber, plywood, and mill work yards unless the primary operation is directly to the general public as opposed to builders and contractors.

**Wind Energy Generating Facility:** Facilities at which wind energy is converted to another form of energy, such as thermal, electrical, or mechanical, protected from unnecessary dissipation and distributed to a user or users. Such facility shall include wind turbines and related structures and equipment. Wind Energy Generating Facilities designed for on-site use shall be considered accessory structures to the principle use.

**Wind Energy Generating Facility, Major:** Facilities at which wind energy is converted to another form of energy, such as thermal, electrical, or mechanical, protected from unnecessary dissipation and distributed commercially to a user or users.

**Wind Energy Generating Facility, Minor:** Facilities at which wind energy is converted to another form of energy, such as thermal, electrical, or mechanical, protected from unnecessary dissipation that are erected primarily for on-site use.

**Zoning Officer:** A person appointed by the Town Board to carry out the regulations of this law, also known as Enforcement Officer.

## ARTICLE III ESTABLISHMENT OF ZONES

### Section 305    Types of Zones

For the purpose of this law, the Town of Harrisburg is hereby divided into the following zones:

(1)    *AR-1: Agricultural/Rural Residential*

PURPOSE:    To preserve open space and natural resources and to promote residential development, open space, and other uses complementary to residential development.

(2)    *RFC: River Front Conservation*

PURPOSE:    To preserve the Deer River for its natural resources and scenic value.

(3)    *H-1: Highway*

PURPOSE:    To encourage mixed development of commercial and residential uses of moderate density.

(4)    *I: Industrial*

*(floating)*

(5)    *PD: Multi-Family Mixed-Use/Mobile Home Parks*

*(floating)*

### Section 310    Zoning Map

A.    The boundaries of the above named zones are delineated on the map entitled “Zoning Map, Town of Harrisburg, New York,” dated with the effective date of this local law and filed in the Town Clerk's Office. This map is hereby adopted and declared to be part of this local law.

B.    Any change made by the Town Board in zone boundaries or other information shown on the map shall be promptly made on the map, with a statement describing the nature and date of the change.

### **Section 315 Interpretation of Zone Boundaries on Zoning Map**

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the Zoning Map, the following rules shall apply:

- A. Where the designation on the Zoning Map indicates a boundary approximately upon a road line, such line shall be construed to be the boundary.
- B. Where the designation on the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.
- C. Where a zone boundary line divides a lot of record at the time such line is adopted, the use authorized on, and the zone requirements of the least restricted portion of such lot shall be understood as extending to cover the lot to a maximum of thirty (30) feet into the more restricted zone.
- D. Distances shown on the Zoning Map are perpendicular distances from road lines measured back to the zone boundary line, which lines in all cases where distances are given are parallel to the road line.
- E. In other cases the boundary line shall be determined by the use of the scale on the Zoning Map.
- F. In the event that a mete-and-bound description has been filed for a change of zone or variance of use as required by this law, such mete-and-bound description shall be used in lieu of other provisions of this section.

**ARTICLE IV  
REGULATED USES BY ZONES**

**Section 405 Zoning District Uses (Chart 1)**

<b>LEGEND: Not Permitted in this Zone - -- Zoning Permit Required - P Special Permit Required - SP</b>	<b>RFC</b>	<b>AR-1</b>	<b>H-1</b>
Accessory structures of 144 square feet or less	Allowed, no zoning permit required.		
Accessory structures over 144 square feet	P	P	P
Agricultural business	--	SP	SP
Agricultural use or structure	Allowed, no zoning permit required.		
Animal hospital	--	SP	SP
Campground/Travel trailer park	SP	SP	SP
Community center	--	SP	SP
Dwelling, multiple-family	--	SP	SP
Dwelling, one-family <sup>1</sup>	P	P	P
Dwelling, two-family	--	P	P
Essential facility	SP	SP	SP
Excavation	--	P	P
Financial, insurance, and real estate	--	--	SP
Home occupation <sup>2</sup>	P	P	P
Hospital	--	--	SP
Indoor recreation	--	SP	SP
Junkyard	--	P	P
Kennel	--	SP	SP
Large product retail	--	--	SP
Laundromat	--	--	SP
Mobile home	P	P	P
Motel/Hotel	SP	--	SP

1 One-family dwelling shall include modular homes.

2 Home occupations shall be allowed in all districts subject to the conditions set forth in Section 560 of this law.

<b>LEGEND: Not Permitted in this Zone - -- Zoning Permit Required - P Special Permit Required - SP</b>	<b>RFC</b>	<b>AR-1</b>	<b>H-1</b>
Motor vehicle repair shop	--	SP	SP
Nursery/Garden shop	--	SP	SP
Nursing/Convalescent home	--	SP	SP
Outdoor recreation	SP	SP	SP
Personal service	--	SP	SP
Professional office	--	SP	SP
Public garage	--	--	SP
Public/Semi-public facility	SP	SP	SP
Restaurant	SP	SP	SP
Retail gasoline outlet	--	--	SP
Shopping center	--	--	SP
Small product retail	--	SP	SP
Tavern, bar, nightclub	--	SP	SP
Telecommunications tower/antenna	SP	SP	SP
Warehousing	--	--	SP
Wholesale	--	--	SP
Wind energy generating facility, major	--	SP	SP
Wind energy generating facility, minor	P	P	P

ZONE AND USE	Section 410 Minimum Lot Dimensions			Section 415 Minimum Setbacks of Structures				Section 420 Maximum Lot Coverage
	Area (acres)	Bldg. Height Max. <sup>3</sup> (feet)	Frontage (feet)	Centerline Town/County Road (feet)	Road Line State Road (feet)	Side Property Line (feet)	Rear Property Line (feet)	
<b>AR-1</b> Single-family dwelling	1.5	35	250	75	50	15	15	50%
Two-family dwelling	2	35	250	75	50	15	15	
Multiple-family dwelling	3 minimum <sup>3</sup>	35	300	75	50	20	20	
Mobile home	1.5	35	250	75	50	15	15	
Nonresidential use	3	35	300	75	50	30	30	
Accessory structure				75	50	15	15	
<b>RFC</b> Single-family dwelling	3	35	250	75	50	30	30	
Mobile home	3	35	250	75	50	30	30	
Nonresidential use	4	35	250	75	50	75	75	
Accessory structure				75	50	30	30	
<b>H-1</b> Single-family dwelling	1.5	35	250	75	50	30	30	40%
Two-family dwelling	2	35	250	75	50	30	30	
Multiple-family dwelling	3	35	300	75	50	50	50	
Mobile home	1.5	35	250	75	50	30	30	
Nonresidential use	3	35	300	75	50	50	50	
Accessory structure				75	50	30	30	
<b>PD</b>	10	6 stories						
<b>I</b>	10	6 stories						
Agricultural Structure (all zones)				75	50	30	30	

<sup>3</sup> Refer to Section 425.



## **Section 425 Special Regulations for Certain Uses**

- A. Religious institutions and agricultural structures are exempt from building height maximum requirement.
- B. Sections 410, 415, 420, and 515 shall not apply to essential facilities; junkyards; wind energy generating facilities; and telecommunication devices, towers, and antennas.
- C. Area requirement of 30,000 square feet per dwelling unit shall apply to a multiple family development when it is not connected to public or centralized water and sewer systems at the time the certificate of occupancy is issued. Area requirement where such systems are installed is 6,000 square feet per dwelling unit.
- D. All excavation activities are subject to ECL Article 23, Title 27 (Mine Reclamation Law) in addition to the following:
  - 1. Access roads shall meet public roads controlled by local government at right angles and at compatible grades;
  - 2. Entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road;
  - 3. In accordance with Mined Land Reclamation Law, within thirty (30) days of receipt of a complete mining application (sent by the Department of Environmental Conservation), the Town Board may submit a recommendation to the Department of Environmental Conservation in regard to the following:
    - i. recommend appropriate setbacks from property lines and road lines;
    - ii. recommend manmade or natural barriers designed to restrict access. The Town Board shall recommend the type, length, height, and location thereof, consistent with the provisions of this law;
    - iii. recommend appropriate methods of dust control;
    - iv. recommend hours of operation; and
    - v. advise whether mining is prohibited at the location.
- E. Section 410 building height maximum requirements shall not apply to telecommunication devices, towers, and antennas.
- F. Telecommunication devices, towers and antennas less than 60' in height which are accessory to and attached to residential uses shall be exempt from this law.
- G. Telecommunication devices, towers and antennas shall not exceed one hundred and fifty feet (150') in height from finished grade to the highest point of the structure. The Planning Board may consider a taller structure when it is in the best interest of the community. Such determination shall be in writing and include supporting documentation.

## **Section 430 Floating Zones**

The following are procedures for establishing Floating Zones::

- A. In order to establish Floating Zones, the Zoning Map must be amended by the following procedures outlined herein and the prescribed regulations for amendments to this Zoning Law found in Section 940.
- B. Application for establishment of a Floating Zone shall be made to the Town Board by the owner(s) of property proposed to be included in the zone. The Town Board shall refer such application to the Town Planning Board for consideration within seven (7) working days of the filing of such an application.
- C. The applicant must provide a development plan and detailed program which would enable the Town Board and Planning Board to evaluate the proposed development and its effects on nearby land uses and public services. Such a plan and program must consist of the application requirements specified under Special Use Procedure Section 715. Once this information is accepted by the Planning Board, the Planning Board shall review the proposal in light of the requirements specified for Floating Zones.
- D. The Planning Board must discuss the proposal with the applicant at a regular meeting of the Board within thirty-one (31) days of the filing of the required information by the applicant with the Town Board. Within ten (10) working days of such a meeting, the Planning Board must report its recommendations to the Town Board.
- E. The Planning Board shall consider, where appropriate, the need for the proposed use in the proposed location; its consistency with the General Plan and the existing character of the neighborhood in which the use would be located. It also must consider the safeguards to minimize possible detrimental effects of the proposed use on the adjacent properties, on public services and on the historic character of the area.
- F. It shall be the authority of the Planning Board to prescribe conditions for the proposed use and make a recommendation for siting the zone based upon this. It is the Town Board's authority to review this recommendation (from the Planning Board) and enact or disapprove an amendment thereon. Within forty-five (45) days of receipt of the Planning Board recommendation, the Town Board must, following public notice provided by this Law (see Section 940.A.1.) hold a public hearing on the proposal; and must then approve or deny this proposal.
- G. If the proposal is approved by the Town Board, and the Zoning Map has been amended to create the appropriate zone, the applicant must within six (6) months submit application for a special use permit as provided in Article VII of this law.
- H. If such an amendment is enacted, the permitted development must be confined to the specific designated area and adhere to the approved development plan and program. Anything different from this constitutes a violation of this Zoning Law.
- I. In order to exceed any of the above time frames for adoption of a Floating Zone there must be agreement by both the applicant and the Town Board.

## **Section 435 Planned Development Zones (PD)**

- A. *Intent.* Planned Development Zones may be established in the town and designated as specific locations on the Zoning Map using the procedure for establishing floating zones in Section 430 of this law. The purpose for establishing such Zones is to allow compatible development of a variety of multifamily and mixed uses and to vary the strict application of the regulations of this law.

It is the intent of this Planned Development Zone to provide flexible land use and design regulations so that neighborhoods or portions thereof may be developed within the town that incorporate a variety of residential and non-residential uses, and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed to function as a separate neighborhood without necessarily needing other building sites or other common property.

This section encourages innovations in residential development so that the growing demands for housing may be met by greater variety in type, design, and siting of dwellings and by the more efficient use of land. Planned developments do not require a mix of residential and non-residential uses to be considered for Planned Development Zone status.

While the standard zoning function (use and bulk) is appropriate for the regulation of land use in some areas or neighborhoods, these controls represent a type of regulatory strictness which may be inappropriate to the innovative techniques of land development contained in the Planned Development Zone concept. A rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where PD techniques are deemed appropriate through the rezoning of land to a Planned Development Zone by the Town Board, the use and dimensional specifications found elsewhere in this law are herein replaced by the general requirements and Special Permit Criteria outlined in Section 435, B., below.

- B. *General Requirements and Special Permit Criteria.* Following are a list of the requirements that a proposal must meet to be considered for PD status.

1. **MINIMUM AREA:** The zone must comprise at least ten (10) acres of contiguous land.
2. **MAXIMUM BUILDING HEIGHT:** No building shall be more than six (6) stories above ground level.
3. **OWNERSHIP:** The tract of land for a project may be owned, leased or controlled either by a single person or corporation, or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.
4. **REQUIRED BUFFER:** Where a planned development proposes multiple family dwellings and/or commercial uses adjacent to residential areas, the Planning Board shall require a minimum seventy-five-foot (75') vegetative buffer area. Plant material shall be six (6) to eight (8) feet in height when planted, and shall be spaced to form an opaque screen in multiple rows with alternate spacing. Berms may be substituted for plant material screening upon approval of the Planning Board.
5. **PERMITTED USES:** Following are descriptions of residential and non-residential uses permitted in the PD Zone. These uses may be mixed, separated, or the development may accommodate only one type of use (i.e., residential or non-residential).

- a. *RESIDENTIAL USES:* Residences may be of any variety of types including single family dwellings, two family dwellings and multiple dwellings. Mobile home parks and mobile home subdivisions shall also be allowed.
  - b. *ACCESSORY, BUSINESS, RECREATIONAL, AND OTHER NON-RESIDENTIAL USES:* Non-residential uses shall include small retail business operations, community centers, public and semi-public facilities, outdoor recreation, restaurants, home occupations, accessory uses/structures. All such uses shall be in keeping with the residential character of the adjacent areas. No industrial uses shall be permitted.
    - (1) The non-residential uses of a business nature shall not exceed the square footage devoted to residential (and its accessory) uses. This shall be determined by building floor area. Such commercial or service area may be in separate buildings or incorporated within two family or multi-family structures or in suitable combinations of these alternatives.
    - (2) Customary accessory or associated uses, such as private garages, storage spaces, community activities, churches and schools shall also be permitted as appropriate to the PD Zone.
6. **COMMON PROPERTY IN THE PD:** Common property is not required to be considered for PD status; however, it is often characteristic of such proposals. Common property in a PD is a parcel or parcels of land, with or without the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be presented for the improvement, operation and maintenance of such common property and facilities, including private road, drives, service and parking areas, and recreational and open space areas.

**Section 440 Industrial Zones (I)**

A. *Intent.* Industrial zones may be established in the town and designated as specific locations on the zoning map using the procedure for establishing floating zones in Section 430 of this law. There are, at the time of adoption of this law, no centers of industrial use in the Town. With this in mind and the fact that there are many potentially adequate sites for industry, it was not feasible to select or limit the use to a few arbitrary spots. But, it was also intended that industrial uses should not conflict with existing uses. For this reason, review criteria have been written in this section to mitigate any potential conflicts.

It is the intention of this law that once a substantial area has been zoned for industry, this section will be repealed by the Town Board. There will then be an Industrial Zone and therefore no need for a floating zone.

B. *General Requirements and Review Criteria.* The following are standards that apply when forming an Industrial Zone:

- 1. The zone change shall be for a minimum of ten (10) acres.
- 2. The proposed industrial use shall not cause undue interference or nuisance that may be detrimental to adjacent uses.

3. The proposed industrial use shall be compatible with the surrounding neighborhood and in harmony with the general plan for the community.

## **Section 445 Cluster Development**

### *A. Authorization*

The Planning Board of the Town of Harrisburg is hereby authorized to modify applicable provisions of this zoning law pursuant to Section 281 of the Town Law simultaneously with the approval of any plat within the Town subject to the conditions set forth in this Section.

### *B. Purpose*

The purpose of cluster development is to permit a procedure for development which will result in improved living and working environments; which will promote more economic subdivision layout; which will encourage a variety of types of residential dwellings; which will encourage ingenuity and originality in total subdivision and individual site design; and which can preserve open space to serve recreational, scenic, and public service purposes, and other purposes related thereto within the densities established for the gross tract.

### *C. Density Transfer*

In each zone allowing cluster development the lot size may be reduced from the general lot size of that zone to a specific minimum lot size for cluster development. All such lot reductions shall be compensated for by an equivalent amount of land in cluster open space to be preserved and maintained for its scenic value, for recreation or conservation purposes.

In the approval of a cluster subdivision, in no case shall the maximum density specified for the applicable zone be increased, nor shall the other applicable regulations or use limitations for the zone be changed or modified.

### *D. Review Criteria*

A permit for a cluster development shall be granted only if evidence is presented which establishes:

1. That the proposed development will be in harmony with the general purpose, goals, objectives, and standards of the General Plan, this law, and the Subdivision Control Law.
2. That the proposed building or use complies with all applicable regulations of this law except as modified pursuant to the authority of this Section.
3. That the proposed building or use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare.
4. That the proposed cluster development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property, in accordance with the applicable zone regulations.

5. That the proposed cluster development will be served adequately by essential public facilities and services such as highways, roads, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use will provide adequately for such services.
6. That the proposed cluster development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

E. *Open Space Requirements*

1. Depending on the size and design of the development, it may be necessary that a common open space, permanently reserved and maintained as landscaped park or recreational space, is provided to serve the homeowners within the development. The area, configuration, and location of such open spaces shall be subject to review and approval of the Planning Board.
2. The land so set aside shall be provided in such a manner that it is usable for recreation or other activities and is accessible to all residents of the subdivision or, where the land has been deeded to the town, to the public.
3. Cluster open space shall be made available for the use of all residents of the Town unless the Planning Board finds that the size, location, type of development, or cost of development or maintenance of such cluster open space, or the availability of public open space, would make public use undesirable or unnecessary.
4. If cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any specifications deemed necessary by the Planning Board.

<p><b>ARTICLE V</b>  <b>GENERAL STANDARDS FOR ALL ZONES</b></p>
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**Section 505    General**

The following regulations shall apply to all uses.

**Section 510    Corner Lots**

In the case of a corner lot, structures shall be set back from all roads the required road setback minimums as established in Section 415 of this law. One road frontage shall meet the lot frontage minimum as established in Section 410 of this law and other road frontages may be of any dimension.

## **Section 512 Principal Uses and Structures per Lot**

There shall be no more than one dwelling on a single lot except in the following circumstances:

1. the placement of a temporary residence complying with the provisions of Section 905 I. of this law, or
2. upon approval of a special use permit. Such permit may be issued where it can be demonstrated that any future subdivision of the lot, which would result in the dwelling being located on separate parcels of land, can be accomplished in such a way that the resulting dwellings will have setbacks in accordance this law, the resulting parcels will have lot areas and road frontages in accordance with this law, and all sewage and wastewater systems will be in accordance with the NYS Sanitary Code.

## **Section 515 Shoreline Requirements**

The following requirements shall apply to land abutting on those areas of the Deer River that are located within the RFC zone.

- A. *Lot Frontage.* The minimum lot frontage as measured along the river shoreline shall be two hundred fifty (250) feet.
- B. *Setback.* The minimum setback of all principal and accessory buildings or structures in excess of one hundred (100) square feet other than docks, boathouses, or swimming floats, shall be a minimum distance of seventy-five (75) feet from the mean high water mark of the river.
- C. *Sanitary Sewage.* The minimum setback of any on-site sewage tile field, seepage pit, or other sewage disposal system will be one hundred (100) feet from the mean high-water mark.

## **Section 520 Parking, General**

- A. All uses shall be provided with off-road parking for all vehicles during typical peak use periods. Off-road parking may be located off-site but must be within three hundred (300) feet of the site.
- B. No non-residential parking area shall be located within ten (10) feet of a side lot line.
- C. A parking space shall not be less than nine (9) feet by twenty (20) feet exclusive of access ways and driveways.
- D. Existing uses need not provide additional off-road parking unless one or more of the following conditions occur:
  1. The use changes.
  2. The use expands its gross floor area by twenty-five percent (25%) or more in a three (3) year period.
  3. The use is destroyed and seeks to be re-established.
- E. In H-1 zones all parking areas should be located behind the facility served and out of roadside view. Where parking areas must be located in front of a facility adjacent to a public highway, landscaping or visual barriers should be provided.
- F. To the greatest extent possible the size of all parking areas other than those for dwelling units and dwelling units with a home occupation shall be based on gross leasable area. Where gross leasable area figures are unavailable, gross floor area figures shall be used.

- G. All fractional portions of parking spaces as calculated by Gross Leasable Area shall be deleted if the fraction is less than .50; otherwise one additional parking space is required.

**Section 525 Parking, Specific Standards**

- A. Two (2) spaces per dwelling unit or mobile home
- B. *Dwelling unit or mobile home with a home occupation*
  - 1. adequate space to accommodate all vehicles during typical peak use periods, or
  - 2. one space for each two hundred (200) square feet of the floor space devoted to the home occupation in addition to the two (2) residential spaces required.
- C. *Professional offices/personal services* 1 space/200 square feet GLA.
- D. *Retail, small product* 1 space/200 square feet GLA
- E. *Retail, large product* 1 space/400 square feet GLA.
- F. *Multifamily housing*

The Planning Board may lower the requirement for two (2) spaces per dwelling, by no more than fifty percent (50%), where the developer can demonstrate a need for fewer spaces such as in the case of senior citizens housing, or based on a spaces-per-bedroom ratio found to be acceptable by the planning board.

- G. *Shopping Centers*
  - 1. Shopping Center Site (sq. ft. GLA)
    - 25,000 - 400,000 1 space / 250 sq. ft. GLA
    - 400,000 - 600,000 1 space / 225 sq. ft. GLA
    - 600,000 + 1 space / 200 sq. ft. GLA
  - 2. Office Space occupying greater than ten (10) percent GLA must meet office standards.

- H. *Facilities with Drive Up-Service windows*

Three (3) twenty-(20)-feet-car-length waiting spaces for each drive-up lane. Where multiple drive-up windows exist there shall be one additional waiting space which shall be a common lane.

- I. *Public and Semi-public Facilities* 1 space per 4 seats
- J. *Funeral Homes* 1 space per 4 seats
- K. *Industrial Facilities* 1 space / 200 sq. ft. GLA



- L. *Mobile Home Park* 2 spaces / mobile home  
1 additional space / 3 mobile homes, centrally located for guest parking and vehicular storage.
- M. *Motel and hotel* 1.25 spaces for each dwelling unit or sleeping room plus 1 space for each employee.

**Section 530 Off Road Loading**

- A. All uses other than dwelling units, agriculture, or home occupations must comply with the following off road loading standards:
 

First 10,000 sq. ft GLA	1 berth
Each additional 10,000 sq. ft.	1 berth
- B. With the exception of funeral homes, each loading berth shall be a minimum of twelve (12) feet wide, fifty (50) feet long and fourteen (14) feet in height.
- C. Loading area berths for funeral homes shall be a minimum of ten (10) feet wide, twenty-five (25) feet long and eight (8) feet in height.
- D. Where the use, traffic generation or function of a site is such that it can be shown by the applicant that the number of berths required is not justified, the Planning Board may vary these requirements.

**Section 535 Signs, Exempt**

A permit shall not be required for the following signs.

- A. *Temporary Signs*
  1. ANNOUNCING SIGNS. One (1) sign per road frontage of a building which is under construction or structural alteration or repair announcing the character of the building enterprise or the purpose for which the building is intended, one (1) sign per other construction project, including names of architects, engineers, contractors, developers, financiers, and others, provided the area of such sign shall not exceed thirty-two (32) square feet. Such sign shall not remain for longer than one (1) month following completion of the project.
  2. REAL ESTATE SIGNS. One (1) sign per road frontage not exceeding sixteen (16) square feet advertising the sale, rental, or lease of the premises on which displayed. All such signs shall be removed within five (5) days after the sale or lease of the property has been consummated and all such signs must be set back at least fifteen (15) feet from any designated road line.
  3. SUBDIVISION SIGNS. One (1) sign per road entrance to the subdivision and located on the property to be subdivided, provided such sign shall not exceed thirty-two (32) square feet in area. Such sign may not be erected until the subdivision has been approved by the appropriate officials and may be displayed for a period of one (1) year from the date of erection. Erection date will be determined to be the same as the subdivision approval date. The display period may be extended by written approval of the Planning Board for a reasonable period of time, not to exceed one (1) year at any given time.

4. SALE AD SIGNS. Signs advertising sales of goods or merchandise. The area of such sign shall not exceed thirty-two (32) square feet in sign area.
- B. *Institutional Signs.* One sign or bulletin board per road-front, setting forth or denoting the name of any public, non-commercial, charitable, or religious institution when located on the premises of such institution, provided such sign or bulletin board shall not exceed thirty-two (32) square feet in sign area.
- C. *Public Signs.* Signs of a public or non-commercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, and all signs erected by a public officer in the performance of a public duty.
- D. *Subdivision, Mobile Home Parks, or Tract Name Signs.* One nonilluminated sign not to exceed twenty (20) square feet in area per exclusive entrance to a subdivision or tract, such signs restricted to the subdivision or tract name.
- E. *Flags.* Official flags of government jurisdictions, including flags indicating weather conditions and flags which are emblems of on-premises business firms and enterprises, religious, charitable, public, and non-profit organizations.
- F. *Plaques.* Commemorative plaques placed by historical agencies recognized by the town, the County of Lewis or the State of New York.
- G. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- H. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- I. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, or names of occupants of premises.
- J. For multiple dwelling projects, one (1) sign, building or ground mounted, indicating the name of the project. Such sign shall not exceed twenty (20) square feet in area or per side if double-faced.

#### **Section 540 Signs, Prohibited**

The following sign types shall not be allowed at any location within the Town of Harrisburg.

- A. Any sign, other than a directional sign, which advertises an activity not conducted on the premises or a product not available for sale on the premises upon which such sign is maintained.
- B. All portable signs over thirty-two (32) square feet in size.
- C. Any sign which has flashing lights, moving parts, or projections beyond its area.
- D. Any sign which projects above the roof line or parapet of a building.

## Section 545 Signs, General Standards

All signs shall be subject to the following general standards.

- A. All signs shall be erected and constructed in a fashion so as not to obstruct traffic, cause visual blight, nor detract from the value of property adjacent to that property upon which said sign is erected. All signs shall be compatible within the context of its visual and physical environment. In making such determination consideration shall be given but need not be limited to the following elements:
  - 1. Size, bulk, and mass.
  - 2. Texture and materials.
  - 3. Colors.
  - 4. Lighting and illumination.
  - 5. Orientation and elevation.
  - 6. General and specific location.
  - 7. Proximity to roads, highways and mass transit routes.
  - 8. Design, including size and character of lettering, logos, and related contents.
  - 9. Message content.
  - 10. Background or field, including the skyline.
  - 11. Character of structural members.
  - 12. Frequency and nature of all general and business signs and official regulatory signs and devices which are within the immediate field of vision.
- B. The sign area of all signs unless otherwise specified shall not exceed ten percent (10%) of the total square footage of that side of the building upon which said sign is to be affixed or in front of which side said sign is to be placed. However, in no case shall a sign, excluding a farm name or other farm identification, exceed thirty-two (32) square feet in area.
- C. All signs advertising home occupations shall not exceed sixteen (16) square feet in area and shall be required to be attached flushed to the building.
- D. No sign shall project into the public right of way.
- F. No sign shall exceed twenty (20) feet in overall height, measured from the highest level of natural ground immediately beneath the sign to the highest point of the sign or the supporting structure thereof.
- G. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. All luminous signs, indirectly illuminated signs, and lighting devices shall employ only lights emitting light of constant intensity.
- H. No luminous sign, indirectly illuminated sign, or lighting device shall be placed or directed so as to cause glaring or non-diffuse beams of light to be cast upon any public road, highway, sidewalk, or adjacent premises, or otherwise to cause glare or reflection that may constitute a traffic hazard or nuisance. No sign shall in its construction employ any mirror or mirror-like surface, nor any day-glowing or other fluorescent paint or pigment.
- I. All signs must be set back at least fifteen (15) feet from any designated road line unless said sign is to be attached to a building which is set back less than fifteen (15) feet from any designated road line. In

this case any sign which is attached to said building must be attached flush to the building and/or not protrude more than twelve (12) inches from the surface of the building.

- J. Signs shall be limited to on-premise or directional signs. On-premise signs shall not exceed one sign per road frontage of the establishment, business or service being advertised except that each 500 feet of frontage shall be considered an additional frontage. Provision can be made for more than one sign, but no more than two signs per 500 feet of frontage shall be allowed, provided that the cumulative total of sign areas does not exceed the standard set in Section 545.B., above. One additional directional sign advertising an establishment, business or service not located on the premises is allowed per road frontage, not to exceed 32 square feet in area.
- K. In the event any standard set forth in this law is in conflict with any other standard set forth in this law the more restrictive standard shall be held applicable.
- L. No signs shall be placed, painted or drawn upon trees, works or natural features on the site, or on utility poles, bridges, or culverts.
- M. All signs, together with their surfaces shall be kept in good repair. The display surfaces shall be kept neatly painted at all times.
- N. Any nonconforming sign existing in the town at the time of the adoption of this law, or an amendment thereto, shall only be replaced by a sign conforming to the regulations for this district.
- O. Any business, enterprise, institution, or other advertising entity that ceases operations shall remove their signs within ninety (90) days of such cessation.

#### **Section 550 Outdoor Swimming Pools**

Adequate fencing and/or other barriers shall be provided to prevent accidental entry and unauthorized use of the pool. Such fencing may be erected so as to completely enclose the pool itself, or the particular yard in which the pool is situated, or the entire property, except that where the pool is constructed in connection with multi-family housing, the pool itself shall be enclosed.

#### **Section 555 Minor Wind Power Generating Facilities**

Minor wind power generating facilities shall be set back from all road lines and all side and rear lot lines at least the height of the tower plus the blade when fully vertical.

#### **Section 560 Home Occupation**

A home occupation is that accessory use of a dwelling that shall constitute either entirely or partly the livelihood of a person living in the dwelling, subject to the following:

No home occupation shall be permitted that:

- A. Generates traffic or parking in excess of what is normal in the neighborhood;
- B. Creates a hazard to person or property, results in electrical interference, or has a potential of becoming a nuisance;

C. Results in the overnight outside storage or display of anything (except signs allowed in this article).

**Section 565 Access Standards**

Access to all sites shall be consistent with the standards set forth in the “Policy and Standards for Entrances to State Highways,” as revised, published by the State of New York Department of Transportation.

**Section 570 Septic Systems**

If a use is not connected to public sewerage, it must meet the requirements of Town of Harrisburg Local Law No. 2 of 1985, as amended (On-Site Sewage Disposal Law).

**Section 575 Roads**

All public or private roads constructed to serve or intended to serve as public thoroughfares shall meet town road standards as set forth by the Harrisburg Town Board.

**Section 580 Fences, Walls, and Shrubbery**

Fences, walls, and shrubbery shall not be placed so as to cause traffic hazards, and shall be kept in good structural repair so that they are not a safety hazard.

**Section 585 Mobile Homes**

A. *Construction Standards*

All mobile homes shall be in compliance with standards equal to or more stringent than the U.S. Department of Housing and Urban Development (HUD) Manufactured Mobile Home Construction and Safety Standards, 24 CFR Part 3280 (1976), and as amended. The applicant is responsible for providing adequate evidence that these standards have been complied with. Acceptable proof shall include the presence of a permanent certification label affixed to the mobile home by the manufacturer indicating such compliance; or certification by a licensed architect or engineer that the construction of the mobile home is in compliance with such standards.

B. *Mobile Home Skirting*

1. Each mobile home shall be provided with a skirt to screen space between the mobile home and the ground.
2. Skirt material shall be vinyl, aluminum, or masonry which will provide a finished exterior appearance that is compatible with the siding

C. *Mobile Home Stand*

1. The mobile home site shall be provided with a stand, basement, or cellar, which will give a firm base and adequate support for the mobile home.
2. A basement or cellar shall be constructed in accordance with the New York State Uniform Fire Prevention and Building Code.

3. A stand shall have a dimension approximating the width and length of the mobile home and any expansions thereto; and
4. Stands shall be constructed in accordance with the New York State Uniform Fire Prevention and Building Code.
5. The stand area shall be graded to ensure adequate drainage but in no event shall the grade variance exceed six (6) inches from one end of the stand to the other.

D. *Exterior Appearance*

1. Each mobile home shall have a minimum roof pitch ratio of 3/12 (about 14°).
2. Roofing shall be of shingle or shingle-like material or a corrugated surface.
3. Each mobile home shall have exterior walls resembling that of traditional site built homes. Siding material can be clapboard, T 1-11, vertical board and batting, shingles and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles and shakes.

E. Siting. All mobile homes shall meet the above construction and exterior appearance standards prior to being sited within the town.

F. Use. Mobile homes shall be used only as a dwelling, except upon issuance of a temporary zoning permit for use as a construction office jobsite trailer as provided for in Section 905 I. of this law.

**Section 590 Outdoor Storage**

Any manufacturing, fabricating, or servicing related to a use must take place within buildings designed to accommodate the use.

Materials used in the manufacturing, fabricating, or servicing operations may be stored outside the building accommodating the use, provided they shall be arranged in a neat and orderly fashion and shall be enclosed by an opaque fence at least eight (8) feet in height so as to prohibit unauthorized entrance by children and other individuals.

## ARTICLE VI SPECIAL USES

### **Section 605    General Requirements**

All Special Uses shall require Special Use Review as specified in Article VII. The following uses shall also meet the requirements as specified in this Article, Article VIII and all other relevant articles of this law before final consideration by the Planning Board. Any pre-established special permit requirements may be waived by the Planning Board, where the requirements are found not to be requisite in the interest of the public health, safety, or general welfare or inappropriate to a particular Special Permit.

### **Section 610    Retail Gasoline Outlets**

- A.    *Location:* A retail gasoline outlet lot shall not be located within three hundred (300) feet of any lot occupied by a school, library, or religious institution.
- B.    *Setbacks:* Gasoline and/or fuel pumps and underground fuel storage tanks shall not be located closer than seventy-five (75) feet to any side or rear lot line.
- C.    *Screening:* Such operation shall be screened from adjacent residential property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property.

### **Section 615    Motor Vehicle Repair Shops**

- A.    *Setback:* All motor vehicle repair shops shall be so arranged as to restrict all servicing on the premises no closer than fifty (50) feet to any lot line.
- B.    *Storage of Waste Material:* All junk wastes, discarded parts, etc., as a result of servicing motor vehicles, equipment, etc., shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent lots until disposed of. None of these materials may be disposed of on the lot.

### **Section 620    Large Product Retail**

- A.    *Setback:* Such sales, rental or storage operations shall be located at least fifty (50) feet from side and rear lot lines.
- B.    *Screening:* Such operation shall be screened from adjacent property by a fence, hedge or other planting or structure so as not to be visible from the adjacent property.
- C.    *Servicing Facilities:* Such operation that also have service facilities for the same shall meet the requirements of Motor Vehicle Repair Shops, Section 615.

### **Section 625    Essential Facilities**

- A.    *Location:* The proposed installation in a specific location must be demonstrated to be necessary and convenient for the efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.

- B. *Buildings:* The design of any building or structure in connection with such facility shall conform to the general character of the area and shall not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. *Landscaping:* Adequate landscaping shall be provided to create a visual and sound buffer between such facilities and adjacent property.
- D. *Access:* All points of necessary access, or transformers, shall be placed in secure structures at ground level.
- E. *Fencing:* All major electrical transformer facilities or substations, if above ground, shall be secured by a fence. Also no transformer or associated switches shall be closer than one hundred (100) feet from any lot line.

**Section 635 Industrial Use**

- A. *Location:* An industrial use shall not locate within three hundred (300) feet of a state designated wetland or a state highway.
- B. *Setback:* Industrial uses shall not be located closer than two hundred fifty (250) feet to any front, side, or rear lot line.
- C. *Screening:* Such operation shall be substantially screened from roads, and adjacent property lines that are other than an industrial use, by a minimum seventy-five (75) foot vegetative buffer area. Plant material shall be six (6) to eight (8) feet in height when planted and shall be spaced to form an opaque screen in multiple rows with alternate spacing. Other equally acceptable screening techniques may be substituted upon approval of the Planning Board.

**Section 640 Junkyards**

All junkyards shall comply with the provisions of the Lewis County Junkyard Law, adopted October 6, 1987, and as amended. A Lewis County junkyard license shall be required and issued by the County prior to issuance of a certificate of occupancy for a junkyard pursuant to this law. Nothing in this law shall be construed to preempt the enforcement of the Lewis County Junkyard Law by the County of Lewis in all areas of the Town of Harrisburg.

**Section 645 Slaughterhouse**

- A. *Setback.* A slaughterhouse shall be set back at least one hundred (100) feet from the side and rear lot line.
- B. *Screening.* Such operation shall be substantially screened from adjacent residential property by hedges, trees, or other plant material, so as not to be visible, year round, from the adjacent boundary.

**Section 650 Restaurants**

Restaurants which will have an average daily trip generation of five hundred (500) automobiles or more shall meet the following additional requirements:

- A. The restaurant ingress and egress shall be a minimum of five hundred (500) feet from the ingress and



egress of any other restaurant of this type.

- B. The minimum distance of any driveway to side lot line shall be thirty (30) feet.
- C. The minimum distance between driveways on the site shall be one hundred (100) feet measured from the two (2) closest driveway curbs.
- D. The parking lot shall be set back at least thirty (30) feet from the road line. Such setback area shall be landscaped with trees and shrubs in substantial compliance with the standards of Section 815 of this law.
- E. Exterior lighting proposed for the site shall be planned, erected, and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source shall not be higher than twenty (20) feet.
- F. Landscaping and fencing shall be provided to minimize conflicts with adjacent land uses.

**Section 655 Campgrounds/Travel Trailer Parks**

A. *Park Location and Condition*

- 1. Each campground/travel trailer park shall have adequate access to a public highway, and each camp/travel trailer site shall be serviced from interior roadways.
- 2. Mobile homes shall not be parked, whether permanently or temporarily, in any campground/travel trailer park except for the owner/operator.

B. *Camp/Travel Trailer Site*

- 1. Camps/travel trailer sites shall be located on generally level terrain, not to exceed eight percent (8%) slope, that is well-drained, is free of flood hazard, and is clear of dense brush.
- 2. The corners of each camp/travel trailer site shall be clearly and permanently marked, and each lot numbered for identification.

C. *Camp/Travel Trailer Site Size*

An overnight camp/travel trailer site shall be a minimum one thousand five hundred (1,500) square feet in size.

D. *Setbacks and Spacing*

All buildings and camp/travel trailer sites shall have a setback of one hundred fifty (150) feet from the road line of all public roads with the setback area being substantially wooded and adequately landscaped to provide screening from all public roads.

E. *Park Access*

Access to all sites shall be consistent with the standards set forth in “Policy and Standards for Entrances to State Highways,” as revised, published by the State of New York Department of

Transportation.

F. *Sewer, Water, and Public Facilities*

Sewer, water and other utilities shall be provided in accordance with the requirements of Chapter 1, Subpart 7-1, New York State Sanitary Code, which is adopted herein by reference, and subject to any other Town requirements.

G. *Recreation*

A minimum of ten percent (10%) of the total area of the campground/travel trailer park, not including the required setback, shall be dedicated to a recreation area and shall be fully maintained by the park owner.

H. *Responsibilities of Park Owner*

The owner or manager of a campground/travel trailer park shall maintain an office in the immediate vicinity of the park and shall maintain accurate records of the names of park residents; home address; and make, description, year, and license or identification number of the trailer. These records shall be available to any law enforcement official or to the Enforcement Officer.

**Section 660 Mobile Home Parks**

A. *Park Location and Conditions*

The site of a proposed mobile home park:

1. shall be located where orderly development of a mobile home park can be undertaken in harmony with development of the surrounding area in terms of traffic generation, ease and safety of vehicular access to and circulation within the park, safety of pedestrian movement, location of structures, adequacy of off-street parking, placement and sizing of sewage treatment and water supply systems and other utilities, safety of fuel storage and supply, provision of open space, recreation facilities or areas, delivery of services and adequacy of landscaping and buffering;
2. shall have generally level to gently rolling topography not to exceed eight percent (8%) in slope over an area of sufficient size to allow development of the mobile home park without significant alteration or disturbance of existing natural amenities or features such as stands of mature trees, stream courses, shorelines, wetlands or bedrock outcroppings; and
3. shall be essentially free from adverse, unsafe or unhealthful conditions including but not limited to flooding, ponding, poor drainage, erosion, slumping or other soil instability, breeding areas for insects or rodents, smoke, noise, odors, heat, glare, or toxic or volatile substances.

B. *Screening*

Each mobile home park shall maintain a fifty (50) foot vegetative buffer area from public lands and adjacent property lines. The buffer area shall be made up of a mixture of shrubs, trees, or other plant material which at the time of planting will provide an opaque screen year round six (6) to eight (8) feet

in height. Other equally acceptable screening techniques may be substituted upon approval of the Planning Board.

C. *Restrictions on Occupancy*

No mobile home shall be admitted to any park unless it meets the standards of Section 585 of this law.

D. *Site Requirements*

1. MOBILE HOME SITE. Each mobile home park shall be divided (exclusive of internal roads, open space or common areas) and marked-off into mobile home sites numbered consecutively, the number being conspicuously posted on each lot with such number to correspond to the lot shown on the site plan submitted.
2. SITE SIZE. Each mobile home site shall be seven thousand five hundred (7,500) square feet in size.
3. SITE WIDTH. There shall be a minimum seventy (70) foot site width.
4. SITE DEPTH. There shall be a minimum ninety (90) foot site depth.

E. *Setbacks and Spacing*

1. All mobile homes, including expansions, extensions or other additions thereto, patios, porches or garages and all other structures in a mobile home park shall satisfy the following setback requirements. A detached structure accessory to and located on the same site with an individual mobile home shall be considered part of the mobile home for the purpose of spacing requirements.
  - a. minimum of one hundred (100) feet from the front lot line.
  - b. minimum of twenty-five (25) feet from the center line of any roadway internal to the mobile home park.
  - c. minimum of forty (40) feet spacing between adjacent mobile homes and any other structures in the mobile home park.
  - d. minimum of twenty (20) feet from side and rear lot lines.
2. No internal roadway, parking lot, recreation area or storage facility for fuels, supplies or equipment shall be located within fifty (50) feet of a property line external to the mobile home park.

F. *Park Design Requirements*

1. ACCESS. Each mobile home park shall provide for safe, legal means of access from one or more public roads as follows:
  - a. access roads shall meet the public roads at right angles and at compatible grades;

- b. entrances shall be located directly opposite or at least two hundred (200) feet from the nearest intersection of public roads, if any, and at least one hundred fifty (150) feet from any other entrances to the mobile home park, if any;
- c. entrances shall have sufficient width to allow reasonable turning movements of vehicles with mobile homes attached and of service or delivery vehicles;
- d. entrances shall be located to allow safe line-of-sight distances to and from their points of intersection with the public road;
- e. at least one (1) common entrance and access road shall be required to serve any mobile home park having less than twenty (20) mobile homes;
- f. at least two (2) independent entrances and access roads shall be required to serve any mobile home park having twenty (20) or more mobile homes; and
- g. access roads connecting mobile home park interior roads with the public road shall meet town road standards.

2. INTERNAL ROADS

- a. Internal roads shall be privately owned and maintained and shall provide for the safe and convenient movement of vehicles, with or without mobile homes attached.
- b. All mobile home sites shall face on and be serviced by such internal roads.
- c. All roads shall be paved and shall be designed, graded and leveled as to permit the safe passage of emergency and other vehicles at a speed of fifteen (15) miles per hour.
- d. Straight, uniform gridiron road patterns should be avoided unless they can be relieved by mobile home clustering, landscaping and an open space system.
- e. Cul de sacs shall be provided in lieu of closed end roads with a turn around having an outside roadway character of at least ninety (90) feet.
- f. All internal roads shall have a minimum thirty (30) foot right-of-way, sixteen (16) feet of which must be paved.

3. RECREATIONAL AREAS AND OPEN SPACE. Easily accessible and usable open spaces shall be provided in all mobile home parks. Such open space shall have a total area equal to at least ten percent (10%) of the net land area of the park and shall be fully maintained by the park owner. Part or all of such space shall be in the form of developed recreation areas to be usable for active recreation purposes. Setback and buffer areas shall not be included when determining the net area of the park.

4. Water supply and sewage disposal systems shall be designed and constructed in compliance with all New York State Health Department and Environmental Conservation Department requirements and approvals. Proof of such compliance must be submitted prior to final

approval.

5. GARBAGE AND REFUSE. It shall be the responsibility of the park owner to ensure that garbage and rubbish shall be collected and properly disposed of outside of the mobile home park. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident or fire hazard.
6. FUEL SUPPLY AND STORAGE
  - a. *GENERAL REQUIREMENTS.* All fuel oil supply systems, provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.
  - b. *SPECIFIC REQUIREMENTS*
    - (1) All fuel oil tanks shall be placed at rear of mobile home and not located less than five (5) feet from any exit.
    - (2) It is recommended that all fuel oil tanks should be buried.
    - (3) It is recommended that a central fuel supply system be provided.
    - (4) Supports or standards for fuel storage tanks are to be of a non-combustible material.
  - c. *NATURAL GAS*
    - (1) Natural gas piping systems installed in mobile home parks shall be maintained in conformity with accepted engineering practices.
    - (2) Each mobile home lot provided with piped natural gas shall have an approved shut-off valve and cap to prevent accidental discharge of gas.
  - d. *LIQUEFIED GAS*
    - (1) Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
    - (2) Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of individual mobile home.
    - (3) All liquid propane gas piping shall be well supported and protected against mechanical injury.
    - (4) Storage tanks shall not be less than one hundred (100) pounds and must be located at rear of mobile home and no closer than five (5) feet from any exit.
    - (5) It is recommended that a central underground gas storage system be furnished.

7. ELECTRICAL SERVICE

- a. Every mobile home park shall contain an electrical wiring system consisting of wiring fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electric power companies' specifications and regulations. All wiring fixtures must have the Insurance Service Organization's approval or other authority as designated by municipality.
- b. Each mobile home pad shall be supplied with not less than a one hundred (100) ampere service.
- c. Lighting shall be provided sufficient to adequately illuminate all road intersections.
- d. All electrical distribution lines shall be placed underground.

8. TELEPHONE SERVICE. When telephone service is provided to mobile home sites, the distribution system shall be placed underground.

9. PARK OFFICE AND STORAGE FACILITIES. Owner or manager of a park shall maintain office and storage facilities in the immediate vicinity of the park.

10. STORAGE FACILITIES. Each mobile home site shall contain for storage purposes an enclosed walk-in utility building with a Gross Floor Area of no less than sixty-four (64) square feet.

11. SERVICE BUILDINGS

- a. Service buildings, if provided, housing sanitation facilities and/or laundry shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.
- b. All service buildings and the grounds of the mobile home park shall be well lighted and maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

12. FIRE PROTECTION AND CONTROL

No open fires shall be permitted any place within the mobile home park with the exception of outdoor grills used for the preparation of foods.

13. The entire mobile home park shall be screened from the view of adjacent properties and roadways by the planting of shrubbery. Such shrubbery shall be of a species suitable to the Planning Board and shall mature to at least an eight (8) foot height.

G. *Responsibilities of Park Operators and Park Occupants*

- 1. A person to whom a permit for a mobile home park is issued shall operate the park in compliance with the standards set forth in this local law and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.

2. The park operator shall place or supervise the placement of each mobile home on its mobile home pad which includes ensuring its stability by securing all tie-downs and installing all utility connections.
3. The park operator shall maintain a register containing the names of all occupants and the make, year, and serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the park.
4. The park occupant shall be responsible for the maintenance of his mobile home and any appurtenances thereto, and shall keep all yard space on his site in a neat and sanitary condition.
5. A list of operator and occupant responsibilities shall be posted in the park office or made available upon request.

#### **Section 665 Major Wind Energy Generating Facilities**

- A. Setback. All wind energy generating facilities shall be set back from all road lines and all side and rear lot lines at least the height of the tower plus the blade when fully vertical. Distance requirements from side and rear lot lines may be reduced by the planning board when such lot lines are common boundaries of contiguous lots that are being leased for the installation of such facilities by the same facility owner/operator.
- B. Landscaping and screening. Appropriate landscaping shall be provided to keep the site in a neat and orderly fashion. Appropriate screening shall be provided to screen accessory structures from adjacent residences.

#### **Section 670 Telecommunication Towers**

- a. The applicant shall provide documentation on the proposed intent and capacity of use, as well as justification for the height of any tower or antenna(e) and justification for any land or vegetation clearing required.
- b. The applicant shall provide a completed Visual Environmental Assessment Form (Visual EAF) and a landscaping plan which incorporates the standards of this law with particular attention given to visibility from key view points within and outside of the town as identified in the (Visual EAF).
- c. Shared Use:
  - (i) At all times, shared use of existing towers shall be preferred to the construction of new towers. Where shared use is unavailable, location of antenna on pre-existing structures shall be the next alternative considered. An applicant shall be required to present a report inventorying existing towers within the Town and within one (1) mile of the Town regardless of ownership. The applicant shall outline opportunities for shared use of existing facilities and use of other pre-existing structures as an alternative to new construction. By way of illustration, existing structures, as referred to in these regulations governing the siting of telecommunication towers and antennas, shall include but not be limited to signs, church spires, belfries, cupolas, domes, monuments, water towers, preexisting tower structures, windmills, chimneys, smokestacks, buildings, utility towers, clock towers, silos, barns or other agricultural buildings, steeples, radio or television towers and commercial parking lot light poles.

- (ii) An applicant intending to share use of an existing tower shall be required to document intent from an existing tower owner to share use.
- (iii) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers. Written requests and responses for shared use shall be provided. The applicant shall also document capacity for co-location (use) by at least three (3) providers who may share use of the proposed tower in the future. The applicant shall provide cost and criteria under which co-location will be permitted. The tower shall also be designed to allow free access and use by emergency management agencies and organizations designated by the Town.
- d. Dimension Requirements - Towers and antennae shall comply with all existing yard and lot dimension requirements within the affected zone. Towers shall not be located closer than 200 feet to the nearest residential property line. In all other cases, towers shall be set back from adjoining properties a distance equal to at least the height of such tower. Additional yard dimensions may be required by the Planning Board to substantially contain on-site all ice-fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Yard dimension requirements shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- e. Visibility:
- (i) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
- (ii) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish, painted gray or painted a natural color above the surrounding treeline unless other standards are required by the FAA. Whenever feasible, tower construction shall be of "monopole" design. In all cases, guyed towers shall be preferable to free-standing structures. Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Painting shall be preferable to lighting. If lighting is required, the lighting alternatives and design shall be of the minimum mandated by the FAA.
- (iii) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- f. Existing Vegetation - Existing on-site vegetation shall be preserved to the maximum extent possible, maintained and replaced as needed, and no cutting of trees exceeding four (4) inches in diameter (measured at a height of four (4) feet off the ground) shall take place prior to approval of the special permit. Clearcutting of all trees in a single contiguous area exceeding 20,000 square feet shall be subject to Planning Board approval.
- g. Screening - Deciduous or evergreen tree plantings shall be required to screen portions of the tower from nearby residential property, as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees forming a continuous hedge at least three feet in height shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm. Fencing may be required by the Planning Board for screening and/or security purposes.
- h. Access and Parking - A road and parking for two vehicles shall be provided to assure adequate emergency and service access. Road construction shall be consistent with standards for private roads. Road construction shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten feet beyond the edge of the travel surface. Road grades



shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived in meeting the objectives of this subsection.

- i. Signs - Signs shall not be permitted on commercial mobile service towers, antennas or related accessory facilities except signs displaying owner contact information and safety instructions. Such signs shall not exceed five (5) square feet in surface area.
- j. Utility Connections - All utility connections to commercial mobile service facilities shall be installed beneath the ground surface.
- k. The operator of any telecommunication tower facility sited within the Town of Harrisburg shall submit certification every five years from the date of operation, signed by a New York State licensed professional engineer verifying that such facility is in compliance with all applicable federal, state, and local radio frequency radiation (rfr) emission standards. Such certification shall be delivered to the Town Clerk during the month of December of the appropriate year. This requirement shall be considered an implied condition to any special permit and/or use variance granted for such facilities.
- l. Tower Inspections - Towers shall be inspected every five years from the date of operation, on behalf of the tower owner by a licensed professional engineer, for structural integrity and continued compliance with these regulations. A copy of such inspection report, including findings and conclusions, shall be submitted to the Town Clerk no later than December 31 of the appropriate year. This requirement shall be considered an implied condition to any special permit and/or use variance granted for such facility.
- m. Maintenance and Repair - All telecommunication towers and facilities shall be maintained in good order and repair.
- n. Removal of Unused Towers, Demolition Bond - An applicant for a Special Permit to construct a communications tower shall agree to remove such tower and related facilities if it becomes obsolete or ceases to be used for its intended purpose for a period of twelve consecutive (12) months. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Board shall require the applicant to provide a demolition bond or other security acceptable to the Town, for the purpose of removing such facilities in case the applicant fails to do so.
- o. Additional Submission Requirements:
  - (i) A report from a licensed professional engineer which describes the tower, including its height and design, demonstrates the tower's compliance with applicable structural standards and describes the tower's capacity, including the number and types of antennas it can accommodate.
  - (ii) The site plan shall show distances between the proposed tower structure and structures on adjoining properties within one thousand (1,000) feet, together with the names and addresses of all property owners within one thousand (1,000) feet of the boundary of the property on which the tower is proposed.
  - (iii) A drawing of the proposed tower, including any proposed attachments, accessory equipment, cabinets or other items used in connection therewith. The make and model of the planned facility and the manufacturer's design data pertaining to installation shall also be provided.
  - (iv) The applicant's maintenance and inspection schedule.
  - (v) Identification of the effects such facility will have on other existing communication facilities in the vicinity. A safety analysis and certification by a licensed professional engineer that the proposed facility will be in compliance with all applicable FAA and FCC laws and regulations.

**ARTICLE VII  
SPECIAL USE REVIEW PROCEDURE**

**Section 705 Authority**

All special permitted uses must receive special permit approval by the Planning Board. Upon the Planning Board's granting of a special permit, all conditions must be met prior to initiation of construction.

**Section 710 Objectives**

In considering and acting on special uses, the Planning Board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:

- A. *Compatibility:* That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the General Plan for the community.
- B. *Vehicular Access:* That proposed access points are not excessive in number, but adequate in width, grade, alignment, and visibility; not located too close to intersections or places of public assembly; and other similar safety considerations.
- C. *Circulation and Parking:* That adequate off-road parking and loading spaces are provided to prevent parking of vehicles on public highways by any persons connected with or visiting the development, that the interior circulation system is adequate to provide safe accessibility to all required parking lots, and that it provides adequate separation of pedestrian and vehicular movements.
- D. *Landscaping and Screening:* That all parking, storage, loading, and service areas are reasonably screened at all seasons of the year from the view of adjacent residential areas and that the general landscaping of the site is in character with the surrounding areas.
- E. *Natural Features:* That the proposed use, together with its sanitary and water service facilities, are compatible with geologic, hydrologic, and soil conditions of the site and adjacent areas and that existing natural scenic features are preserved to the greatest extent possible.

**Section 715 Procedure**

- A. *Application for Special Permit.* Two copies of an application for a special permit shall be filed with the Town Clerk together with the appropriate fee as determined by the fee schedule adopted by Town Board resolution. The application and plan shall include where applicable as determined by the Planning Board, but not be limited to, the following:
  - 1. Name and address of applicant and owner, if different, and of the person responsible for preparation of such drawings;
  - 2. Date, northpoint, written and graphic scale;

3. Boundaries of the area plotted to scale, including distances, bearings, and areas;
4. Location and ownership of all adjacent lands as shown on the latest tax records;
5. Location, name, and existing width of adjacent roads;
6. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
7. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
8. Existing hydrologic features together with grading and drainage plan showing existing and proposed contours at five foot intervals;
9. Location, proposed use, and height and dimensions of all buildings;
10. Location, design, construction materials of all parking and truck loading areas with access and egress drives thereto;
11. Provision for pedestrian access, including public and private sidewalks;
12. Location of outdoor storage, if any;
13. Location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;
14. Description of the method of sewage disposal and the location, design, and construction materials of such facilities;
15. Description of the method of securing public water and location, design, and construction materials of such facilities;
16. Location of fire lanes and other emergency zones including the location of fire hydrants;
17. Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy;
18. Location, size, design, and construction materials of all proposed signs;
19. Location and proposed development of all buffer areas including indication of existing and proposed vegetative cover;
20. Location and design of outdoor lighting facilities;
21. Designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office, and other similar commercial or industrial activities;
22. Number and distribution by type of all proposed dwelling units;

- 23. General landscaping plan and planting schedule;
  - 24. SEQRA Environmental Assessment Form;
  - 25. Other elements integral to the proposed development as considered necessary by the Planning Board including identification of any federal, state, or county permits required for the project's execution.
- B. *Planning Board Review of Special Use.* The Planning Board shall consider the proposed special use and its net effect on the community. Such consideration shall include, as appropriate, but shall not be limited to, compatibility with the general plan, the economic, social, physical, and environmental aspects of the proposal, and such other matters as may be determined pertinent. The board may consult with local and county officials, its designated consultants, and also with representatives of federal, state, and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the Department of Environmental Conservation, and the Department of Health.
- C. *Public Hearing.* The Planning Board shall conduct a public hearing on the special permit application. Such public hearing shall be conducted within sixty-two (62) days of the receipt of the completed application and shall be advertised at least five (5) days before the hearing in the Town's official newspaper. At least ten (10) days before such hearing the Planning Board shall mail notice thereof to the applicant.
- D. *Planning Board Action on Special Use.* Within sixty-two (62) days of such public hearing, the Planning Board shall act on the special permit application. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the special permit application is approved, disapproved, or approved with conditions. If the special use is disapproved, the statement will contain the reasons for such findings.

Upon approval of the special permit and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan, special permit, and all documents submitted as part of the application.

The decision of the Planning Board shall be filed in the office of the Town clerk within five (5) business days after the day such decision is rendered, and a copy mailed to the applicant.

- E. *County Planning Board Review.* The Planning Board shall provide notice of all special use review matters that fall within those areas specified under General Municipal Law, Article 12-B, Section 239-m to the County Planning Board at least ten (10) days prior to public hearing. Any special use that falls within 500 feet of the boundary of the Town; a State/County park or recreation area; a State or County highway or expressway; a State or County owned drainage channel; State or County land where a public building or institution is located; or requires an agricultural data statement shall be referred to the Lewis County Planning Board for their recommendations thereon. The notice shall be accompanied by a full statement of the matter under consideration. If the County Planning Board does not respond within thirty (30) days from the time it received a full statement on the referral matter, or such longer period as agreed upon by the Town and County, then the Town Planning Board may act without such report. The Town Planning Board must report to the County Planning Board within seven (7) days after taking final action thereon.
- F. *Agricultural Data Statement; Requirements.* An application for a special permit that would occur on

property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The Planning Board shall consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district.

- G. *Agricultural Data Statement; Content.* An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.
- H. *Agricultural Data Statement; Notice Provision.* Upon the receipt of such application by the Planning Board, the Secretary of such Board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing said notice shall be borne by the applicant.
- I. *Environmental Review.* The Planning Board shall be responsible for compliance with the State Environmental Quality Review (SEQR) Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in Title 6, N.Y.C.R.R., 617.

## **Section 720    Financial Guarantees for Public Improvements**

- A. *Required Public Improvements*
  - 1. All public improvements required pursuant to the approval of special uses shall be constructed and completed to the standards required by state and local laws, rules, and regulations.
  - 2. The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Section shall be completed within one (1) year from the date of the approval of the subdivision plat or special use. Road improvements shall be completed within two (2) years from the date of approval of the subdivision plat or special use.
  - 3. The applicant may request an extension of time to perform required public improvements provided he can show reasonable cause for inability to construct and install said improvements within the required time. Such extension of time shall not exceed six (6) months. At the end of such extension of time, if the required public improvements are not completed and accepted by the Town, the Town may use as much of the financial security required by this Section to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.
  - 4. At least five (5) days prior to commencing construction of required public improvements the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall

be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board.

B. *Required Financial Security*

Applicants for special use approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks, and other public improvements commonly required of applicants for special use approvals.

Acceptable financial security shall be provided to the Town in one of the following ways:

1. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.
2. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.
3. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this law.

C. *Review of Proposed Financial Security*

For each of the above options, the required public improvements shall be shown on subdivision plats or special use, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warrantee period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

D. *Schedule of Improvements*

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

E. *Staged Refunding of Financial Guarantees*

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was

employed in the written agreement itemizing the required public improvements.

The applicant, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the town, by the appropriate municipal inspectors, and by the Town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

F. *Acceptance of Required Public Improvements*

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

G. *Required Maintenance Guarantee*

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten percent (10%) of the financial guarantee originally required of the applicant. The applicant may provide a maintenance guarantee by one of the methods provided for in Section 2 of this Article, but no maintenance bond shall be for less than five thousand dollars (\$5,000) (face value). All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two (2) years therefrom or for two (2) years from the June first next succeeding the acceptance of the required public improvements, whichever period is longer.

**ARTICLE VIII  
SPECIAL USE REVIEW STANDARDS**

**Section 805    General**

In review and approval of Special Uses, the Planning Board shall follow the standards set forth in this Article.

**Section 810    Erosion Control**

- A. An Erosion Control Plan must be submitted and approved when an activity involves one of the following:
1. Disturbs five (5) acres or more of land;
  2. Is to be conducted on a site which has a slope anywhere on the site that averages fifteen percent (15%) or more over a horizontal distance of at least one hundred (100) feet.

For purposes of this section *disturbed land* shall mean any use of the land by any person in the town that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, wind, or ice from the site of its origin. This section shall not be

construed to include the normal disturbance of the soil and its natural cover occurring in the ordinary course of agricultural use.

B. All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Specifically, the following protection shall be provided for all disturbed areas: minimize velocities of water run-off, maximize protection of disturbed areas from storm water run-off, and retain sedimentation within the development site as early as possible following disturbances. A list of major problem areas for erosion and sedimentation control follows. For each one, the purpose(s) of requiring control is described. Soil erosion and sedimentation control measures for all such areas shall be provided with a view toward achieving the specific purpose listed below for which control plan is required.

1. ERODIBLE SLOPES: prevent detachment and transportation of soil particles.
2. STREAMS, STREAMBEDS, STREAMBANKS, BODIES OF WATER, SHORELINES: prevent detachment and transportation of soil particles.
3. DRAINAGEWAYS: prevent detachment and transportation of soil particles (which would otherwise deposit in streams, bodies of water, or wetlands); promote deposit of sediment loads (transversing these areas) before these reach bodies of water.
4. LAND ADJACENT TO STREAMS, PONDS, AND WETLANDS: prevent detachment and transportation of soil particles.
5. ENCLOSED DRAINAGE STRUCTURE: prevent sedimentation in structure, erosion at outfall of system, and deposit of sediment loads within system or beyond it.
6. LARGE FLAT SURFACE AREAS (unpaved): prevent detachment of soil particles and their off-site transportation.
7. IMPERVIOUS SURFACES: prevent the detachment and transportation of soil (in response to an increase in the rate and/or volume of run-off of the site or its concentration caused by impervious surfaces).
8. BORROW AND STOCKPILE AREAS: divert run-off from face of slopes which are exposed in the excavation process; convey run-off in stabilized channels to stable disposal points; leave borrow areas and stockpiles in stable condition.
9. ADJACENT PROPERTIES: prevent sedimentation from being deposited on others' properties.

## **Section 815 Landscaping and Screening**

A. *General Requirements:*

1. Plant materials shall be selected according to hardiness and ability to withstand highway salt conditions.
2. Areas that will receive continued pedestrian movement shall be paved.
3. Landscape plans shall be as-built plans of the completed project.



- B. *In Areas of Traffic Movements:* In areas where landscape materials are required to define paths of traffic movement, the following standards may be required by the Planning Board:
1. Plants shall be selected to achieve not more than three (3) feet mature height. Planting height shall be eighteen (18) to twenty-four (24) inches.
  2. Plants shall be spaced to create a compact hedge border at time of planting.
  3. As an alternate, the Planning Board may permit street trees as follows. Trees shall be three-and-one-half (3½) to four (4) inches caliper, spaced twenty (20) feet on center, and have branching begin at a height no less than ten (10) feet and no greater than twelve (12) feet.
  4. Planting beds shall be covered with one of the following materials or approved equivalent:
    - a. Licorice mulch at four (4) inches minimum depth.
    - b. Stone aggregate at three (3) inches minimum depth.
    - c. Where pedestrian cross traffic is evident, a paving material shall be used such as paving blocks set in sand with tight joints or Epoxy-Rok or equivalent.
- C. *In and Around Parking Areas:* In areas where landscape materials are required to complement parking areas, forty (40) foot planting islands at the end of or within parking areas shall contain materials acceptable to the planning board.
- D. *To Define Entrances and Exits:* Where landscape materials are required to define the point of entrance to a commercial facility, the following standards or approved equivalent shall be used when required by the Planning Board:
1. Plant materials shall consist of a carefully designed variety of evergreen shrubs.
  2. Design may be a natural or formal setting; however, plant height shall not interfere with required sight distances.
- E. *To Complement Pedestrian Areas:* Where landscape materials are required to complement areas intended for pedestrian activity, the following standards or approved equivalent shall be used when required by the Planning Board:
1. Pedestrian areas shall be paved with concrete or paving block set in concrete.
  2. In order to minimize large areas of paving, landscape features, such as two (2) to three (3) foot earth mounds and planters, may be used.
  3. Plant materials shall consist of a variety of evergreen and deciduous shrubs and trees.
  4. Planting beds shall be covered with a licorice mulch or approved equivalent.
- F. *Screening:* Where landscape materials are required for screening purposes, the following standards or approved equivalent shall be used:

1. When sufficient space is available, a dense screen of evergreen plant materials shall be used.
  2. Plant materials shall be planted at a height approved by the Planning Board and shall be spaced to form an opaque screen.
  3. Where limited space is available, stockade or other approved fence may be used in conjunction with climbing or trellised plants.
- G. *Natural Areas:* Where landscape materials are required by the Planning Board primarily to beautify otherwise vacant spaces, the following standards or approved equivalent shall be used:
1. Where practical, earth forms should be used such as two (2) to three (3) foot landscaped mounds.
  2. PLANTING BED COVER: Same as E.(4) or, as an alternate, sod may be substituted.
- H. *To Complement State and County Highway Rights-of-Way:* Where landscape materials are required by the Planning Board to complement areas along a State and County Highway right-of-way, the following standards or approved equivalent shall be used:
1. The area shall be covered with sod or, as an alternative, stone aggregate at a minimum three (3) inch depth may be substituted.
  2. Evergreen and/or deciduous materials shall be placed according to size approved by the Planning Board.

**Section 820 Drainage**

1. To the extent practicable, all development shall conform to the natural contours of the land and natural and preexisting manmade drainage ways shall remain undisturbed.
2. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site. Surface water shall not be regarded as unduly retained if:
  - a. The retention results from a technique, practice, or device deliberately installed as part of an approved sedimentation or storm water run-off control plan; or
  - b. The retention is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.
3. No surface water may be channeled or directed into a sanitary sewer.
4. Wherever practicable, the drainage system of a development shall be coordinated with the connections to the drainage systems or drainage ways on surrounding properties or streets.
5. Private roads and access ways within unsubdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

6. Construction specifications for drainage swales, curbs and gutters, and storm drains are contained in Town Road Standards, which shall be adhered to.
7. All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments. More specifically:
  - a. No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.
  - b. No development may be constructed or maintained so that surface waters from such development are unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties.

<b>ARTICLE IX</b> <b>ADMINISTRATION AND ENFORCEMENT</b>
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**Section 905 Zoning Permits**

- A.
  1. No building or structure shall be erected, moved, or use instituted, or land use changed, until a zoning permit, special permit, or temporary permit therefor has been issued unless otherwise exempted by this law. The exterior structural area of a building shall not be enlarged until a zoning permit or special permit has been issued, unless otherwise exempted by this law.
  2. A mobile home may not be placed in or relocated within the Town of Harrisburg, nor be stored until and unless an appropriate permit has been issued by the town.
- B. A zoning permit shall not be required for the following. However, these activities shall still be required to meet the standards of this law.
  1. Signs listed in Section 535.
  2. Fences, walls, and shrubbery (see Section 580).
  3. Interior structural alterations. Likewise no zoning permit is needed for routine maintenance and improvement (e.g., roofing, window replacement, siding replacement, etc.) that does not expand the exterior dimensions of the structure.
  4. Chimneys, placement of posts, and other similar accessory structures or uses.
  5. Roadside stands.
  6. Agricultural structures.
  7. Garage, lawn and porch sales.
  9. Construction of a structure with a floor area of 144 square feet or less. However, such structures

shall meet the requirements of this law.

- C. When establishing measurements to meet required setbacks, the measurements shall be taken from the road line, road center line, lot line, or nearest high water elevation to the furthestmost protruding part of the structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
- D. No such zoning permit, special permit, temporary permit, or certificate of occupancy shall be issued for any building or structure where said construction, addition, and exterior expansion or use thereof would be in violation of any of the provisions of this law.
- E. A zoning permit or special permit issued under this law shall expire one (1) year from the date of issue if construction is not started.
- F. Any use that has been discontinued for a period of twelve (12) months or longer shall be termed abandoned and may not be reinstated without applying for a new permit.
- G. Applications for zoning permits shall be submitted to the Zoning Officer or Town Clerk and shall include two (2) copies of a layout or plot plan showing the actual dimensions of the lot to be built upon; the size and location on the lot of the structures and accessory structures to be; the distance from the building line to all lot lines, road right-way-lines, waterfront property lines, streams, and any other features of the lot; and such other information as may be necessary to determine and provide for the enforcement of this law. This information, and other relevant application data, shall be provided on a form issued by the Town.
- H. A fee as determined by resolution of the Town Board shall be paid for each zoning permit, special permit, and/or temporary permit application.
- I. Temporary permits may be issued by the zoning officer as meeting the intent and purpose of this law, for a period not exceeding one year, for conforming and nonconforming uses. Such temporary permits are conditioned upon agreement by the owner or operator to remove any nonconforming structures or equipment upon expiration of the temporary permit, or bring the use into compliance by a specific time.
- J. Parking lots for places of public assembly and commercial, industrial, or business uses shall require a zoning permit for placement. They shall meet the requirements of Sections 520 and 525.

#### **Section 910 Zoning Officer**

- A. This law shall be enforced by the Zoning Officer, who shall be appointed by the Town Board.
- B. The Zoning Officer's authorities shall include:
  - 1. Approve and/or deny zoning permits.
  - 2. Scale and interpret zone boundaries on Zoning Maps.
  - 3. Approve and/or deny Certificates of Occupancy.
  - 4. Refer appropriate appeal matters to the Zoning Board of Appeals.
  - 5. Revocation of a zoning permit, special permit, and/or temporary permit where there is false, misleading or insufficient information. Revocation of a zoning permit, special permit, temporary permit, and/or certificate of occupancy where the applicant has not done what was proposed on the application.

6. Issue stop work orders for noncompliance with this zoning law.
7. The Zoning Officer shall report at regular Town Board meetings the number of zoning permits issued and fees collected.
8. Issue appearance tickets and refer violations to the Town Justice.

**Section 915 Certificate of Occupancy**

- A. No land shall be occupied or used and no building or structure hereafter used, or changes made in the use until a certificate of occupancy shall have been issued by the Zoning Officer stating that the building, structure, or proposed use thereof complies with the provisions of this law.
- B. All certificates of occupancy shall be applied for coincidentally with the application for a permit. Said certificate shall be issued within ten (10) days after the erection and alteration shall have been approved as complying with the provisions of this law.
- C. The Zoning Officer shall maintain a record of all certificates and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.
- D. Under such rules and regulations as may be established by the Zoning Board of Appeals, a temporary certificate of occupancy for not more than thirty (30) days for a part of the building may be issued by the Zoning Officer. Such temporary certificate may be renewed.

**Section 920 Zoning Board of Appeals**

- A. *Creation, appointment, and organization:* A Zoning Board of Appeals is hereby created. Said Board shall consist of five (5) members. The Town Board shall appoint the members of the Board of Appeals on a staggered term basis in conformance with Town Law. The Town Board shall appoint a Chairman and Vice-Chairman. The Board of Appeals shall select a Secretary and shall prescribe rules for the conduct of its affairs.
- B. *Powers and duties:* The Board of Appeals shall have all the power and duties prescribed by Section 267 of the Town Law and by this law, which are more particularly specified as follows:
  1. **INTERPRETATION:** Upon appeal from a decision by an administrative official or citizen to decide any question involving the interpretation of any provision of this law, including determination of the exact location of any zone boundary if there is uncertainty with respect thereto.
  2. **VARIANCES:** To vary or adapt the strict application of any of the requirements of this law in the case of exceptionally irregular, narrow, shallow, or steep lots, and other exceptional physical conditions; or undue use hardships; whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building. Variances must meet the criteria of Town Law, legal parameters and the regulations and intent of this law. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.
  3. Review and approve and disapprove temporary permits.
- C. *Procedure:* The Board of Appeals shall act in strict accordance with the procedure specified by law. All appeals and applications made to the Board shall be in writing and on a form prescribed by the

Town. Every appeal or application shall refer to the specific provisions of the law being appealed and shall exactly set forth the interpretation that is claimed, the use for which the permit is sought, or the details of the appeal that is applied for and the grounds on which it is claimed that the appeal should be granted, as the case may be. A hearing shall be held for all variance actions in conformance with the requirements of Town Law. Every decision of the Board of Appeals shall contain a full description of reasons for granting or denying the permit. The reasons for the action shall be set forth in the minutes of the Board of Appeals meeting at which the action was taken. A tally of each member's vote shall be recorded. All meetings and hearings of the Board shall be public.

## **Section 925 Planning Board**

- A. *Powers and duties:* The Planning Board shall have the following powers and duties with respect to this law:
1. Approval of special permits.
  2. Submittal of an advisory opinion to the Town Board for proposed amendments to this law.
  3. Review and approval, approval with modifications, or disapproval of special permits within the town as designated pursuant to Section 274-b of the Town Law and in accordance with the standards and procedures set forth in this local law. It is understood that the Planning Board may vary the strict application of general and specific special use review criteria in order that the applicant meet generally prescribed performance criteria.
- B. *Procedure:* The Planning Board shall act in strict accordance with the procedure specified by this law. All applications made shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case.

## **Section 930 Violations and Penalties**

- A. Whenever a violation of this law occurs, the Zoning Officer, Town, or any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the Zoning Officer shall issue a stop work order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time the Town shall take action to compel compliance.
- B. Pursuant to Section 150.20 (3) of the Criminal Procedure Law, the Zoning Officer is hereby authorized to issue an appearance ticket to any person, firm, or corporation causing a violation of this law, and shall cause such person, firm, or corporation to appear before the Town Justice.
- C. Pursuant to Town Law Section 268, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation.

A violation of this law shall be 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. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- D. Pursuant to Town Law Section 268(2), in case any building or structure is erected, constructed, or reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of the law, the proper local authorities of the town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use 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; and upon the failure or refusal of the proper local officer, board or body of the town to institute any such appropriate action or proceeding for a period of ten days after written request by a resident taxpayer of the town so to proceed, any three taxpayers of the town residing in the district wherein such violation exists, who are jointly or severally aggrieved by such violation, may institute such appropriate action or proceeding in like manner as such local officer, board or body of the town is authorized to do.
- E. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.

### **Section 935 Nonconformities**

#### **A. *Intent***

The intent of this section is to recognize certain uses, lots of record and structures which legally existed at the time of enactment of this local law and which would be prohibited or unreasonably restricted by the provisions, regulations, standards, or procedures herein. This section shall not, however, be construed to perpetuate or encourage the survival or expansion of such uses, lots or structures.

#### **B. *Non-Conforming Uses***

Any use of land or structures which by the enactment of this local law is made non-conforming may be continued on the premises and to the extent pre-existing provided that:

1. No non-conforming use shall be expanded, extended, or otherwise increased so as to occupy a greater area of land than was committed to the non-conforming use at the time of such enactment;
2. No non-conforming use shall be extended so as to displace a conforming use;
3. Any non-conforming use of land or structures which has, for any reason, been discontinued for a period of one (1) year, shall not be reestablished and only conforming uses shall be thereafter permitted;
4. A non-conforming use of land or structures once changed to a conforming use shall not be permitted to change back to a non-conforming use.

C. *Non-conforming Lots of Record*

Any lot of record held under separate ownership prior to the enactment of this local law and having lot width or lot depth or both less than the minimum area requirements set forth in this local law may be developed with any compatible use listed for the zone in which such non-conforming lot is located without requiring a variance provided that such lot:

1. Does not adjoin other property held by the same owner where sufficient land could be transferred to eliminate the non-conformity without reducing such other property to non-conforming dimensions;
2. Has sufficient area, width, and depth to undertake development which will:
  - a. maintain the required minimum front setback,
  - b. meet or exceed at least two-thirds (2/3) of the required minimum side and rear setbacks,
  - c. not exceed the maximum permitted lot coverage; and
3. Otherwise satisfies all applicable provisions of this local law.

C. Nonconforming Structures

1. Any structure which by the enactment or amendment of this law is made nonconforming may be used for any compatible use listed for the zone in which such structure is located.
2. A nonconforming structure shall not be enlarged or extended so as to increase its nonconformance in terms of setback or lot coverage, except as follows:
  - a. Structures nonconforming as to road setback shall not be expanded anywhere within the area which is one-half the setback distance closest to a road.
  - b. Structures nonconforming as to road setback may be expanded only within the setback area which is greater than one-half the setback distance from the road.
  - c. In no case shall any structure which is nonconforming as to road setback be expanded so as to be closer to the road than the closest point to the road of the existing structure.
  - d. Structures which are nonconforming as to side or rear setback distances shall not be expanded anywhere within the side or rear setback distances.
3. Nothing under the provisions of this law shall prevent the repair, restoration, or reconstruction of a nonconforming structure damaged by fire or other hazard provided that such repair, restoration, or reconstruction is undertaken only on the premises and to the extent previously occupied by the nonconforming structure, and application is made within one year from the date on which the damage or destruction occurred.

**Section 940 Amendments**

- A. The Town Board may amend, supplement, or repeal the regulations and provisions of this law after



public notice and public hearing. All proposed changes shall be referred to the Lewis County Planning Board for their recommendation and for a report thereon prior to final action. The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice to be given as follows:

1. By publishing a notice at least ten days prior to the time of such hearing in the Town's official newspaper.
  2. By referring the proposed amendments to the Clerk of the County Legislature and the clerks of neighboring towns and villages, and to any housing authority or state park commission whose property might be affected, at least ten (10) days prior to the public hearing.
- B. In case of a protest against such change signed by the owners of twenty per cent (20%) or more of the area of land included in such proposed change or of an adverse recommendation by the County Planning Board, the vote of the Town Board must have a majority plus one in favor to adopt the amendments.

#### **Section 945 Interpretation and Separability**

- A. Interpretation and application of the provisions of this law shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
- B. Should any section or provisions of this law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

#### **Section 950 Effective Date**

The provisions of this law shall take effect upon filing with the Secretary of State.